



Tweed Shire Council

# BUSINESS PAPER AGENDA

13 May 2004

Dear Minute Book

**NOTICE IS GIVEN** that a Meeting of Council will be held at the Council Chamber, Murwillumbah Civic and Cultural Centre on **19 May 2004**, commencing at **3.00pm**

Submitted,

A handwritten signature in black ink, appearing to read 'J Griffin'.

**Dr J Griffin**  
General Manager

## AGENDA

1. Prayer
2. Confirmation of Minutes
3. Apologies
4. Delegates Report - Mr Russell Logan (Aboriginal Mentor Program)
5. Disclosure of Interest
6. Items to be Moved from Ordinary to Confidential - Confidential to Ordinary
7. Schedule of Outstanding Resolutions
8. Mayoral Minute
9. Items Deferred
10. Reports through General Manager
  - Reports from Director Planning & Environment Services
  - Reports from Corporate Services
  - Reports from Director Engineering Services
  - Reports from Director Environment & Community Services
11. Reports from Sub-Committees/Working Groups
12. Delegates Reports
13. Outstanding Inspections
14. Items of Information and Interest
15. Orders of the Day
16. Workshops
17. Question Time
18. Confidential Matters - (exclude Press and Public)

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## ITEMS FOR CONSIDERATION OF COUNCIL:

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## **SCHEDULE OF OUTSTANDING RESOLUTIONS**

### **Schedule of Outstanding Resolutions**

#### **FOR COUNCILLOR'S INFORMATION:**

**17 March 2004**

#### **REPORT FROM DIRECTOR ENGINEERING SERVICES**

##### **21 [ES] Proposed Water Reservoirs Adjacent to Koala Beach Estate**

**202**

**Councillor H James**

**Councillor B M Luff**

**RESOLVED** that Council investigates the further option of constructing the proposed Reservoir at a location on the Mooball-Pottsville Road.

**Current Status:** Reassessing technical aspects including alternative sites.

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#### **REPORTS FROM SUB-COMMITTEES/WORKING GROUPS**

##### **Minutes of the Aboriginal Advisory Committee Meeting held Thursday 1 April 2004**

##### **[MOS] 4. Far Western Tugun Bypass Route**

**Councillor M R Boyd**

**Councillor R D Brinsmead**

**RESOLVED** that an invitation be extended to Mr George Beattie and Mr Bruce Campbell to address a Community Access meeting of Council.

**Current Status:** To be arranged.

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## **MAYORAL MINUTE**

### **Mayoral Minute**

Councillors,

#### **1. Kingscliff Volunteer Coast Guard**

6 May – met with Commander Kingscliff Volunteer Coast Guard on site at Training Centre Kingscliff

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#### **2. Red Cross**

7 May – attended 10<sup>th</sup> Anniversary Community Visitors Scheme at Nursing Centre West Tweed

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#### **3. BEX Awards**

7 May – Launch of Bex Awards at Twin Towns

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#### **4. Tweed Taskforce**

10 May – Launch Tweed Heads Masterplan by Hon. Diane Beamer MP at Twin Towns

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#### **5. Kingscliff Chamber of Commerce**

10 May – addressed Kingscliff Chamber of Commerce re Shire issues affecting Kingscliff

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#### **6. Enterprise Development**

11 May – turned sod at Enterprise development South Tweed

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### **INVITATIONS ACCEPTED:**

- 13 May – to Sydney to meet with Minister concerning Casino to Murwillumbah rail closure
  - 14 May – Private Citizenship Ceremony at Murwillumbah
  - 14 May – Mt. St. Patrick Debutante Ball Murwillumbah
  - 17 – 29 May – On leave
-

**INFORMATION ON CONFERENCES TO BE HELD** - Councillors to advise Mayoral Assistant, Jan Green, if they wish to attend and/or require further details:

- Australian Local Government Women's Association **17-20 June** Parramatta
  - (Local Government Learning Solutions) "Elected Life" Workshop **24 May** Lismore
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**ABSENCES FROM SHIRE BY EXECUTIVE, AND COUNCILLORS:**

**Executive**

Name	From	To	Location	Details
DECS	27 May 2004	27 May 2004	Gold Coast	CLAG Meeting
DECS	10 June 2004	10 June 2004	Tugun	Airport Noise Consultative Committee Meeting
EM	17 May 2004	18 May 2004	Homebush	NSW LG Finance Professionals Annual Conference
GM	23 May 2004	26 May 2004	Melbourne	LGMA National Congress
GM	31 May 2004		Sydney	LGMA Forum "The Hitchhiker's Guide to Local Government"
GM	1 June 2004	3 June 2004	Sydney	Shires Association Annual Conference

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## ITEMS DEFERRED

### [ID] [DS] 2 Development Application DA03/1259 - Demolition of Existing Dwelling and Construction of Multi-Dwelling Housing Comprising 3 Dwellings at Lot C DP 406494, No 2 Boundary Lane, Tweed Heads

#### ITEM DEFERRED FROM MEETING HELD:

5 May 2004

**265:**

*Councillor L F Beck*

*Councillor G B Bell*

**RESOLVED** that this item be deferred to allow the applicant to address Community Access.

#### ORIGIN:

Development Assessment Unit

FILE NO: DA03/1259 Pt1

#### SUMMARY OF REPORT:

Council is in receipt of a development application for a multi-dwelling housing development containing three (3) units. The proposed building is five (5) storeys in height, and is accessed from Boundary Lane. The subject land has an area of 398.6m<sup>2</sup>.

The application seeks a variation to the Building Line and design principles in Development Control Plan No. 18 - Tweed Heads. The submitted plans have not demonstrated compliance with on site car parking, however it is noted that the applicant contends the basement can be modified to comply.

During the public exhibition of the development application four (4) submissions were received objecting to the proposal. The application has not been supported. The number of non-compliances with the proposed development are considered to be representative of the over development of the site.

#### RECOMMENDATION:

That Development Application DA03/1259 for the demolition of existing dwelling & construction of multi-dwelling housing comprising 3 dwellings at Lot C DP 406494, No. 2 Boundary Lane, Tweed Heads be refused for the following reasons:

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1. The proposed development is not considered to achieve the primary objective of the zone provided in Tweed Local Environmental Plan 2000 as good design outcomes are not achieved over the site.
2. The proposed development is in conflict with the provisions of Development Control Plan No. 18 - Tweed Heads in relation to the following:
  - The proposed development does not achieve the strategic policy for the precinct as provided in that landscaping should be of an appropriate scale relative to both the street width and the building bulk.
  - The proposed development is not considered to achieve the objectives of the building envelope provisions as the physical impact and bulk of the building has an impact on the adjoining public street.
  - The proposed development is not considered to achieve objectives of the high density residential precincts in that the design will have unreasonable impacts on the streetscape.
    - ⇒ The proposed development is considered not to achieve the residential design principles of:
      - ⇒ Bulk and scale,
      - ⇒ Shadow impact to the adjoining property in mid winter,
      - ⇒ Landscaped area,
      - ⇒ Roofline,
      - ⇒ Car Wash Areas not being included in calculations for on site parking
3. The proposed development is not in the general public interest as it is considered to be an over development of the site.
4. The proposed Building Line Variation is not supported as it is considered to be unacceptable.

**REPORT:**

**Applicant:** Ms J Harvey  
**Owner:** Ms J Harvey  
**Location:** Lot C DP 406494 No. 2 Boundary Lane, Tweed Heads  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$650,000.00

**BACKGROUND:**

Council is in receipt of a development application for the demolition of an existing building and the erection of a multi dwelling housing development comprising three dwellings in a five storey building.

The subject land has a 15 metre frontage to Boundary Lane, this is the only public street frontage for the development. Boundary Lane has a four metre wide pavement that can not support any on street car parking. The laneway is one way.

The proposed development is accompanied by a Building Line Variation as the open decks at each level are approximately 4 metres from the laneway alignment. Strictly the Building Line Policy does not apply to laneways, however in this case it is the primary and only frontage for the allotment, and as such the 6 metre building line should be observed.

The applicant submitted an application to vary the building line and such was not supported by the Building Surveyor. Issues in the Building Surveyor report were supported by the Area Team Meeting, including:

- Building Line Setback
- Size of Allotment
- Merits of the Design given the height and scale
- Cumulative Impacts
- Precedent of Development along laneway.

The proposed development also seeks variations to the design principles contained in Development Control Plan No.18 - Tweed Heads.

The following report assesses the proposed development in light of Council's controls and the issues raised above.

**SITE DIAGRAM:**



## CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

### (a) (i) The provisions of any environmental planning instrument

#### Tweed Local Environmental Plan 2000

The subject land is zoned 2(b) Medium Density Residential under the Tweed Local Environmental Plan 2000. The primary objective of the zone is:

*To provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good urban design outcomes.*

The proposed development is medium density residential development and is the expected type of development for the zone objective. However the proposed development is not considered to achieve a good design outcome for the site. As such the proposed development is not considered to meet the primary objective of the zone.

Clause 15 of the TLEP requires essential services to be available to the site or satisfactory arrangements being made prior to Council determining an application. The subject site has access to essential services.

Clause 16 of the TLEP sets height limitations by way of a building height plan. The subject site has a height limitation of RL 50m AHD. The applicant has provided plans detailing the building height to be RL 42.46m AHD thereby complying with the height limitation for the site.

Clause 17 of the TLEP relates to the need for social impact assessment for development where Council is of the view that the development is likely to generate a social or economic impact in the locality. The redevelopment of this property in accordance with the identified controls for the site is not considered to raise significant social or economic issues.

Clause 35 of the TLEP relates to the management of acid sulfate soils. The applicant has submitted that due to the height of the land the proposed basement is not likely to intercept ground water or lower ground water in adjoining acid sulfate soil areas. Council's Environmental Health Surveyor has not raised any objection in relation to this aspect of the proposal.

#### North Coast Regional Environmental Plan 1988

Clause 32B of the NCREP is applicable to development in that the land is located in the area of Tweed Heads and is affected by the Coastal Policy. The proposed development does not result in the overshadowing of any coastal reserves. The applicant has submitted shadow diagrams which demonstrate the extent of impacts from the proposal.

Clause 43 of the NCREP aims at maximising residential densities of development to maximise the use of land and limit the size of roads. The proposed development is considered to be in fill development in an area identified for the proposed use and as such the proposed development is not considered to be in conflict with this clause.

Clause 51 of the NCREP relates to building heights and requires the consent authority to obtain concurrence of the Director General for buildings over 14 metres in height. The proposed building does not exceed 14 metres in height.

The proposed development is not considered to be in conflict with the provisions of the NCREP.

#### State Environmental Planning Policies

##### State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development

This policy requires development that is more than 3 storeys in height, and contains 4 or more self contained units to be assessed under the provisions of SEPP65. The proposed development is only for three units and as such the applicant was not required to complete a full assessment of the application under SEPP65.

The applicant has submitted that the proposed development has been designed with consideration to the design quality principles.

##### State Environmental Planning Policy No.71 - Coastal Protection

The subject land is not in a sensitive coastal location. The proposed development is 12.926 m above natural ground level at its highest point and as such Council is the consent authority for the proposed development.

Clause 8 of SEPP71 contains matters for consideration that have been addressed by the applicant. The proposed development is located approximately 300 metres from the Tweed River and foreshore areas, however the proposed development does not result in overshadowing of these areas.

The proposed development generally complies with the matters for consideration under SEPP71.

#### **(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

The proposed development does not raise the need for further assessment in relation to the existing draft environmental plans, as the height limitation for this site is based on an RL level and not number of stories.



**(a) (iii) Development Control Plans (DCP's)**

Development Control Plan No.18 - Tweed Heads

The subject land is located in the Flagstaff Hill Precinct which is one of the high density residential precincts. The objectives of the high density residential precincts are:

- Develop the precincts primarily as high density residential areas which respect existing residential amenity;
- Provide additional housing choice in housing accommodation to cater for an increasing variety of household types;
- Facilitate an increased residential population in proximity to the sub regional centre of Tweed Heads to maximise economic and social benefits;
- Promote the efficient use of residential land;
- Develop a streetscape that reflects the climate, topography and lifestyle of the locality.

The proposed development is a high density residential development however it is considered through the assessment of the proposal that the impact of the development on the public road in terms of amenity from the setbacks and inadequate landscaping will not result in the laneway being developed to reflect the climate, topography and lifestyle of the locality.

The precinct has a strategic policy in relation to streetscapes and landscaping. Other than the need for applications to be accompanied by a landscape plan prepared by a qualified landscape architect, there is a requirement that:

- Landscaping should integrate site building design and blend new developments into overall streetscape,
- Landscaping should be of an appropriate scale relative to both the street width and the building bulk.

The proposed development provides a six metre setback from Boundary Lane on the basement floor plan however the ground floor plan is setback four metres from the laneway. The proposed development dominates the laneway frontage with a ramped entry into the basement and garage door entry, and block wall with minor screening to the laneway provided along the property frontage.

The proposed development is not considered to satisfy the requirement of the landscaping being to an appropriate scale for both the street width and the building bulk. The laneway is a four metre wide pavement and given the height and bulk of the proposed development the landscaping should provide relief to the public road frontage however this is not demonstrated in the design. There is inadequate space on the allotment to provide the extent of landscaping for a development of this bulk.

Standard	DCP requirement	Variation / Complies
Building more than 8 metres in height	DA should be accompanied by a model, visual statement, shadow diagram, perspective drawings to demonstrate compliance with building envelope.	The proposed development does not comply with the building envelope and the application has only been accompanied by a set of plans including shadow diagrams.
Building Envelope	72 degrees from property boundary	The proposed development seeks a variation to the building envelope. This is further assessed below.
Building Mass	The bulk of a building should be reduced by breaking the building into smaller components.	The proposed development has a bulky appearance from the Boundary Lane frontage as the building fully occupies the frontage with each storey providing minimum relief.  The side elevations have attempted to break up the line of the building with different shaped buildings and some variation due to the building envelope, however these elevations have an imposing bulk in there appearance given the minimal side setbacks.
Ventilation	Cross ventilation for high quality living.	The proposed development would achieve cross ventilation as the apartments occupy an entire level and therefore have access to the direction of prevailing winds and air movement.
Daylight Access	Daylight access to habitable rooms.	The living areas of the units would achieve this principle as they access sunlight from the balconies and Boundary Lane frontage.
Wind Mitigation	Minimise down draft impacts.	The proposed development does not adjoin a public footpath or other public land that would result in pedestrians

		being affected by the downdraft.
Overshadowing	Buildings should not overshadow reserves and consideration to mid winter impacts.	The proposed development does not overshadow a reserve, however the proposed development does result in shadow impacts to the adjoining property in mid winter that is considered to be significant due to the shadow dominating the times from 9.00am to midday. The applicant has identified the shadow times to extend from 9.00am to 4.30pm mid winter to adjoining properties and contends that the redevelopment of the adjoining properties will occur and therefore the shadow impacts will not be long term in this area.
Roof Lines	Roof lines should provide a visual interest.	The proposed development has an uninteresting roof line that does not provide and relief to the appearance of the proposed building and does not contribute to the streetscape.
Privacy	Visual privacy should be achieved between developments.	The proposed development has not demonstrated the relationship between it and future adjoining development, however from the location of large windows it is considered that visual privacy may be achieved.
Security	Security is to be provided in entrances and areas of surveillance in development.	The proposed development is provided with a basement and a gated pedestrian entry to the main entry. This area of the development is very small and narrow and is not visually prominent to the streetscape.
Materials and Colours	Buildings should be finished to a high standard.	The proposed development would be able to be provided to a high standard of colour and low reflective glass finish.
Access and Parking Car Wash	Access is encouraged from secondary frontages and parking should be provided in basements.	The access to the site is from the only frontage, this being Boundary Lane and dominates the streetscape. The car parking is provided in a

		basement.
Open Space and Balconies	Balconies to have a minimum area of 8m <sup>2</sup> and a minimum dimension of 2m. Landscaped area should be 25m <sup>2</sup> per unit.	The proposed balconies comply with the area requirements. The applicant contends that the development provides 124m <sup>2</sup> of landscaping however it is noted from the site plans that the majority of this is hard stand paved areas with minimal garden beds provided. As the DCP only requires 25m <sup>2</sup> per unit the proposal only requires 75m <sup>2</sup> of landscaping. The impact from the bulk and scale of the development is not reduced by the landscaping.

### Building Envelope

The objectives of the building envelope provisions are:

- Ensure that building setbacks to property boundaries increase relative to any increase in building height;
- Minimise the visual and physical impact and apparent bulk of tall buildings on adjoining developments and public streets and spaces;
- Facilitate adequate sunlight access to and minimise shadow impact on adjoining properties and public streets and spaces;
- Reduce ground level wind effects caused by tall buildings;
- Facilitate the development of taller, narrow buildings which produce visual diversity and can preserve important view corridors.

The proposed development encroaches into the building envelope with the stairwells intruding as well as eave overhangs. These components of the building are not residential spaces however the design of the components encroaching into the building envelope do not enhance the design or provide an improvement to the building. Rather these encroachments are a result of the building envelope being maximised to achieve a density outcome on the site.

The proposed development is not considered to achieve the objectives of the building envelope provisions as the physical impact and bulk of the building has an impact on the adjoining public street.

The proposed development is considered to exceed the design principles for the site as set out in Development Control Plan No.18.

### Development Control Plan No.2 - Car Parking

The proposed development requires the provision of 5 car parking spaces at the rate of 1.5 per unit. The plan submitted for the basement only identifies three spaces however the applicant contends that with a minor modification the proposal can accommodate four spaces in the basement. At the entry to the development, access from the driveway level, the development provides one visitor space adjacent to a car wash bay that the applicant has submitted to be used also as a parking space. As such the proposed development can with minor changes provide five spaces.

Compliance with the on site car parking for this proposal is important as the public street does not provide the possibility for any casual on street parking. As the applicant contends the proposal can be modified to comply with DCP2 this is not included as a reason for refusal.

### Development Control Plan No.39 - Energy Efficient Housing

The applicant has submitted NatHERS certificates for each of the proposed units and demonstrates compliance with the requirements of DCP 39.

#### **(a) (iv) Any Matters Prescribed by the Regulations**

The subject land is affected by the NSW Coastal Policy. The proposed development is not considered to be in conflict with the strategic aims and goals of this policy.

#### **(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

### Residential Design and Amenity

The non compliances with DCP 18 have been detailed. The variations being sought to the design principles in DCP 18 reduce the amenity of the development and surrounding area. The applicant has submitted a building line variation that has been assessed and not supported due to the impacts of such a building line variation to a narrow laneway. The potential for future developments along the laneway requesting the same would result in an unacceptable cumulative impact.

The proposed development would result in an unacceptable impact to the amenity of the surrounding area and the future redevelopment.

**(c) Suitability of the site for the development**

Size of Allotment

The subject land is not considered to be suitable for a development of this scale and bulk as the site area is only 398.6m<sup>2</sup>. This small site area is further exacerbated by the allotment only having a frontage to a laneway that is relatively narrow. The subject land does not have the relief of public footpath of wide road reserve to assist in meeting the design principles detailed in DCP 18.

The site needs to provide all landscaping and visual relief within the development, and as the proposal attempts to maximise density, an over development of the site results.

**(d) Any submissions made in accordance with the Act or Regulations**

The proposed development was advertised for a two week period during which four submissions were received. The following table addresses the issues raised in the submissions.

Issue	Detail	Assessment
Access and car Parking	Concern was raised in relation to the proposed car parking and access to the development.	<p>The applicant has submitted that the development only needed to provide 5 spaces together with one wash bay under DCP 2, and therefore the proposed development complies.</p> <p>The proposal combines the wash bay with one of the spaces and this is considered unreasonable as the development should be able to accommodate 5 vehicles in addition to the car wash bay.</p> <p>The applicant has acknowledged that the car wash bay cannot be used as a visitor space and as such has indicated that the basement can be modified to comply.</p> <p>The applicant has submitted that a no standing zone exists down the laneway that is enforced by the police. And therefore the development would not be able to impact on the lane with informal parking.</p> <p>The issue of car parking is not a reason for refusal as the applicant</p>

		contends the development can be modified to comply.
Over Development	Concern was raised that the proposal is an over sized development.	<p>The applicant contends that the development is within the expectation for the site as detailed in DCP 18 and the height limitation for the site.</p> <p>While the proposal does not exceed the height limitation it is considered that the bulk and scale of the development and the impacts to building envelope are a reflection of over development of the site. The number of non compliances detailed in this report conclude that the development is an over development of the site and as such a reason for refusal of the proposal.</p>
Privacy	Concern has been raised that the proposed development will result in a loss of privacy to adjoining development.	<p>The applicant has submitted that this results from single dwelling houses within the medium density zones. The development has been designed to orientate balconies away from adjoining properties to minimise loss of privacy.</p> <p>The applicant submitted further plans to detail where privacy screens could be installed.</p> <p>This issue has not been included as a reason for refusal as it is difficult to quantify the areas of existing privacy being lost by the proposal.</p>
Noise and impacts during construction	Concern was raised in relation to location of air conditioning and during construction noise.	These aspects of the development would be conditioned in the event that the proposal was being approved.

The submissions received raised issues in relation to the proposal, some of which are included in the recommended reasons for refusal.

**(e) Public interest**

The proposed development is not in the general public interest as it is not in accordance with the development controls for the site. The number of variations being sought when considered in relation to the size of the allotment and bulk of the development result in over development of the site.

The proposed development is not in the general public interest for the locality.

**OPTIONS:**

1. Refuse the proposal for the recommended reasons.
2. Request conditions be brought forward to approve the proposed development.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicant has a right of appeal to the NSW Land and Environment Court if dissatisfied with the determination.

**POLICY IMPLICATIONS:**

Approval of this application would set an undesirable precedent in approving development that undermines the design principles of Development Control Plan No. 18.

**CONCLUSION:**

In conclusion it is considered that the proposal should not be supported for the reasons detailed in this report.

**UNDER SEPARATE COVER:**

Nil.

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**[ID] [DS] 2 Development Application DA03/1348 for a Subdivision into 17 Lots at Lot 2 DP 871171, Lot 731 DP 48275, Lot 515 DP 755740 No. 4A Oyster Point Road, Banora Point**

**THIS ITEM DEFERRED IS THE SUBJECT OF A FURTHER REPORT CONTAINED WITHIN THIS AGENDA AT ITEM NO 6**

**ITEM DEFERRED FROM MEETING HELD:**

**5 May 2004**

***Councillor H James***

***Councillor J F Murray***

***RESOLVED*** that this item be deferred and that Council requests the Roads and Traffic Authority to purchase Lot 2 DP 871171, Lot 731 DP 48275, Lot 515 DP 755740 No 4A Oyster Point Road, Banora Point

**ORIGIN:**

**Development Assessment**

**FILE NO: DA03/1348**

**SUMMARY OF REPORT:**

Council is in receipt of a development application for a 17 lot residential subdivision on the subject land. The site is located on the eastern side of the Pacific Highway and is a prominent site. The land is zoned for residential purposes and forms part of the residential precinct of East Banora.

The development application was identified as integrated development and required referral to the NSW Rural Fire Service for General Terms of Approval. The applicant provided the necessary information to satisfy the requirements of the NSW Rural Fire Service.

As the subject land adjoins land in the ownership of the Roads and Traffic Authority consultation was undertaken with the Roads and Traffic Authority for their requirements. However as the Sextons Hill Bypass alignment and design is still in preliminary stages the applicant has not been able to design acoustic barriers to meet the requirements for a road way that is unknown in design, speed and vertical alignment.

The proposed subdivision complies with Council's requirements for residential subdivision and it is considered that the noise attenuation devices and their design may be finalised prior to the issue of a construction certificate for Stage 2 thereby enabling the applicant to finalise the development lot boundaries with adjoining property owners.

**RECOMMENDATION:**

That Development Application DA03/1348 for a subdivision into 17 lots at Lot 2 DP 871171, Lot 731 DP 48275 & Lot 515 DP 755740 into two stages at No. 4A Oyster Point Road, Banora Point be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans Nos 0358IBN-S02 prepared by Stewart McIntyre & Associates and dated 24/11/2003, and Plan No.0358IBN-S05 prepared by Stewart McIntyre & Associates and dated 12/3/2004 except where varied by these conditions. [GEN0010]
  
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property. [GEN0030]
  
3. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual. [GEN0040]
  
4. No retaining walls or similar structures are to be constructed over Council's sewer main. [GEN0090]
  
5. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and required by this consent.
  - a) copies of compliance certificates relied upon
  - b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
    - earthworks
    - roadworks
    - road pavement
    - acoustic barrier
    - road furnishings
    - stormwater drainage
    - water supply works
    - sewerage works
    - landscaping works
    - sedimentation and erosion management plans
    - location of all service conduits (water, sewer, Country Energy and Telstra)
    - the approved Traffic Control Plan

- the relevant maintenance manuals (eg. G.P.T's, water pump station)

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[GEN0140]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

6. A detailed plan of landscaping is to be submitted and approved by Council's Director Planning and Environment prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to release of subdivision certificate.

[PCC0010]

7. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.

[PCC0040]

8. **Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the Director Planning and Environment.

The bond will be refunded, if not expended, when the final Subdivision Certificate is issued.

[PCC0080]

9. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill and cut batters shall be obtained wholly within the subject land.

[PCC0090]

10. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-

- i. Construction along the full length of the proposed subdivision roll top kerb and gutter/vertical face kerb and gutter on an approved alignment along with associated sub-surface and over-land stormwater drainage systems and 9 metre wide road pavement from the lip of the new kerb and gutter to the edge of the existing bitumen pavement including tapers.
  - ii. The road reserve in the subdivision shall be generally in accordance with drawing 0358IBN-S02 prepared by Stewart McIntyre & Associates dated 24/11/2003.
  - iii. Construction of a stormwater drainage system that will convey all waters through the site to a legal point of discharge. The sub-surface and over-land drainage systems shall convey the respective flows from minor and major storm events. Clearly defined upstream catchment areas and supporting stormwater calculations shall accompany the engineering design plans.
  - iv. The proponent shall submit detailed plans and specification with an application for Construction Certificate for, but is not limited to, the proposed link road, associated services, subsurface overland flow and piped stormwater drainage structures designed in accordance with DCP16.

[PCC0180]
11. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCC0190]
12. Permanent Stormwater Quality Treatment
- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.

- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Permanent stormwater treatment shall be in general accordance with the Stormwater Management Plan prepared by Cozens Regan Williams Prove (August 2003) attached to the development application. [PCC0230]
13. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee. [PCC0240]

14. Erosion and Sediment Control During the Construction Phase of Development
- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.

- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

15. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17<sup>0</sup> or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- i) Contours and terraces where the height exceeds 1m.
- ii) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- iii) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- iv) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.
- v) The landscaping shall be completed to the satisfaction of the Director Planning and Environment **PRIOR** to the issue of a Subdivision Certificate.
- vi) A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

[PCC0330]

16. Construction Certificate drawings shall make provision for the design of earthworks, land forming and site regrading in accordance with "Development Design Specification - Site Regrading" or to the satisfaction of the Director Engineering Services.

[PCCNS01]

17. All retaining walls are to be designed by a suitably qualified geotechnical/structural engineer in accordance with AS4678-2002- Earth Retaining Structures. A report that details compliance with the design provisions of this standard is to accompany the Construction certificate Drawings.

[PCCNS01]

18. Details of the proposed roof water disposal for dwellings on Lots 6 - 15 inclusive, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.

All roof water shall be discharged to infiltration pits located wholly within the subject allotment.

The infiltration rate for sizing infiltration devices shall be 3m per day:

- As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24-hour period, before surcharging occurs.

Surcharge overflow from the infiltration area must be directed into the proposed inter-allotment drainage (IAD) as shown on Cozens Regan Williams Prove engineering drawing M.20.0vSK1 by visible surface flow, not piped.

Runoff is to be pre-treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).

If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).

All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.

All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.

All infiltration devices are to be located clear of stormwater or sewer easements.

The IAD line is to discharge to a level spreader in proposed Lot 6 to distribute flows across the full width of Lot 6.

An easement favouring all benefiting properties is to be obtained over the IAD system, discharge structures and level spreader and over all of Lot 6 downstream of the level spreader.

[PCCNS02]

19. Prior to the issue of a construction certificate for stage 2 the applicant shall satisfy the requirements of the NSW Roads and Traffic Authority and Tweed Shire Council in terms of the design of any acoustic barriers required for the subdivision.
20. Prior to the issue of a construction certificate for stage 2 the applicant shall submit to Council an acoustic report providing the design measures required for future residences in stage 2 of the subdivision. The acoustic report for the design measures for the future residences shall have regard to the acoustic barrier referred to in condition 19 above.

[PCCNS03]

#### **PRIOR TO COMMENCEMENT OF WORK**

21. Subdivision work in accordance with a development consent must not be commenced until:-
  - (a) a construction certificate for the subdivision work has been issued by:
    - (i) the consent authority, or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:
    - (i) has appointed a principal certifying authority, and
    - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
  - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

[PCW0020]

22. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director Planning and Environment. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0030]

23. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

[PCW0090]

24. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Planning and Environment.

[PCW0140]

25. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.



Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

[PCW0190]

26. Where water is required to be drawn from Council's water reticulation system it shall be the applicants responsibility to notify the Engineering Services Division prior to taking water.

All drawn water shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[PCW0260]

27. **Prior** to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-

- a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
- b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

[PCW0270]

#### **DURING CONSTRUCTION**

28. All engineering works required to be approved prior to the issue of a construction certificate are to be constructed in accordance with the approval.

[DUR0020]

29. No soil, sand, gravel, clay or other material shall be disposed of off the site.

[DUR0030]

30. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR0040]

31. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[DUR0150]

32. Prior to the application for a **Subdivision Certificate** a Compliance Certificate or Certificates shall be obtained from Council **OR** an accredited certifier for the following:-

- (i) Compliance Certificate - Roads
- (ii) Compliance Certificate - Water Reticulation
- (iii) Compliance Certificate - Sewerage Reticulation
- (iv) Compliance Certificate - Sewerage Pump Station
- (v) Compliance Certificate - Drainage

**Note:** 1. Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and good Engineering Practice.

2. Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

**Roadworks**

- a. Pre-construction commencement erosion and sedimentation control measures
- b. Completion of earthworks
- c. Excavation of subgrade
- d. Pavement - sub-base
- e. Pavement - pre kerb
- f. Pavement - pre seal
- g. Pathways, footways, bikeways - formwork/reinforcement
- h. Final inspections - on maintenance
- i. Off Maintenance inspection

**Water Reticulation, Sewer Reticulation, Drainage**

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits
- e. Backfilling
- f. Permanent erosion and sedimentation control measures

- g. Drainage channels
- h. Final inspection - on maintenance
- i. Off maintenance

**Sewer Pump Station**

- a. Excavation
- b. Formwork/reinforcement
- c. Hydraulics
- d. Mechanical/electrical
- e. Commissioning - on maintenance
- f. Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

- 3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR0360]

- 33. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.

- a. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
- b. That the pavement materials used comply with the specifications in RTA Form Q3051 (June 1998)
- c. That the pavement layers have been compacted to RTA specifications.
- d. That site fill areas have been compacted to the specified standard.
- e. That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
- f. That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR0370]

- 34. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans **AND** the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.

[DUR0400]

35. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.  
[DUR0430]
36. The footpath area is to be graded to the kerb and turfed for the full frontage of the site.  
[DUR0510]
37. On completion of the filling work, all topsoil to be respread and the site revegetated.  
[DUR0550]
38. Inter allotment drainage shall be provided to **all** lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means.  
[DUR0580]
39. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix B, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798.  
[DUR0630]
40. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.
- Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.
- This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.  
[DUR0730]
41. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.  
[DUR0850]
42. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.  
[DUR0870]
43. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.  
[DUR0880]

44. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning. [DUR0890]
45. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays. [DUR0900]
46. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
  - B. Long term period - the duration.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence. [DUR0910]
47. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0920]
48. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is constructed in accordance with Tweed Shire Council Design Specification D7 - Stormwater Quality. [DUR0930]
49. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1210]
50. The horizontal and vertical alignment of the proposed link road shall transition smoothly into the existing pavement of Martinelli Avenue and Bione Avenue in accordance with DCP16.

51. The vertical alignment of the proposed link road shall be such that the sag in the kerb and channel aligns with the easement to drain water that exists within Lot 1 DP 1034399.
52. For storms up to a Q100 ARI event, overland flow associated with the development must be conveyed through designated overland flow paths, prior to breaching the crest in the road reserve of Martinelli Avenue, east of the site.
53. In accordance with DCP16, the formed nature strip of the proposed road reserve is to be 3.5m wide at 2% crossfall.
54. In accordance with DCP16, the proposed kerb and channel is to be standard Tweed Shire Council Upright, not Layback.
55. In accordance with DCP16, a 1.2m wide footpath is to be constructed on one side of the proposed link road. The nominated side is to be confirmed by Council.
56. The driveways servicing proposed Lots 13 and 14 are to be constructed for the full length of the access shafts in accordance with Tweed Shire Council's DCP16.
57. Erosion and Sedimentation control measures shall be carried out in accordance with the Erosion and Sediment Control Plan prepared by Cozens Regan Williams and Prove Pty Ltd dated August 2003.

[DURNS01]

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

58. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

#### **Stage 2**

Water:	14 lots @ \$4110	\$57,540.00
Sewer:	14 lots @ \$3290	\$46,060.00

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

59. Section 94 Contributions

- (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

**Stage 2**

- a. Tweed Road Contribution Plan: \$23,576.00  
S94 Plan No. 4 (Version 4.0)  
**(Tweed South - Sector 2)**

**Heavy Haulage Component**

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads (trip one way)

\\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

b.	Open Space (Structured): S94 Plan No. 5	\$10,920.00
c.	Open Space (Casual): S94 Plan No. 5	\$2,338.00
d.	Street Trees: S94 Plan No. 6	\$600.60
e.	Shirewide Library Facilities: S94 Plan No. 11	\$9,632.00
f.	Bus Shelters: S94 Plan No. 12	\$322.00
g.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$1,764.00
h.	Emergency Facilities (Surf Lifesaving) <b>(REMSHIRE)</b> S94 Plan No. 16	\$3,010.00
i.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$4,827.34
j.	Cycleways S94 Plan No. 22	\$2,240.00
k.	Regional Open Space (Structured) S94 Plan No. 26	\$16,478.00
l.	Regional Open Space (Casual) S94 Plan No. 26	\$3,094.00

60. A Subdivision Certificate will not be issued for each stage by the General Manager until such time as all relevant conditions of Development Consent No DA03/1348 have been complied with. [PCC0050/PSC0005]

61. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following: [PSC0010]

- i. Easements for sewer, water supply and drainage over **ALL** services on private property.



- ii. Restriction as to user for all lots within Stage 2 of the subdivision to ensure future dwelling houses are designed in accordance with the acoustic design measures in the acoustic report as required in Condition 20.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0020]

62. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.

[PSC0040]

63. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Councils Surveyor within two months of the issue of the Subdivision Certificate.

[PSC0060]

64. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director Planning and Environment **PRIOR** to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0070]

65. Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.

- (i) The following information must accompany an application:
  - original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$122.00 per lot.
  - relevant development consent
  - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
  - evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)

- a certificate of compliance from the relevant water supply authority (where applicable)
  - for subdivision involving subdivision works evidence that:
  - the work has been completed, or
  - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
  - security given to the consent authority with respect to the completion of the work
  - Work as Executed Plans for **ALL** works
- (ii) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.
- (iii) Written evidence from Council that the proposed road/street names have been approved.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0090]

66. Prior to the issue of a **Subdivision Certificate**, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual.

The plans are to be endorsed by a Registered Surveyor **AND** a Consulting Engineer Certifying that:

- (i) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
- (ii) the plans accurately reflect the Work as Executed.

**Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.**

[PSC0100]

67. Prior to the issue of a **Subdivision Certificate** a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued and will be refunded following the remedying of any defects arising within the 6 month period.

[PSC0110]

68. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

Any defects identified by the inspection are to be repaired using any one of the following repair techniques or such other technique as may be approved by the Director of Engineering Services.

- Tiger Patch patch liner;
- Econoliner;
- PL Quick Sleeve System;
- Flexi-Bond method

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC0140]

69. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

Council does not permit the building over Council's sewers. When buildings are located in close proximity to the sewer, detailed plans of footing types, location and depth relative to the sewer are required to be included with the Construction Certificate Application.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0150]

70. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC0170]

71. i. The production of written evidence from Country Energy certifying that reticulation of underground electricity (residential and rural residential) has been completed; and
- ii. The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

[PSC0190]

72. All stormwater gully lintels shall have the following notice **cast** into the top of the lintel: '**DUMP NO RUBBISH, FLOWS INTO CREEK**' or similar wording to the satisfaction of the Director of Development Services.

[PSC0220]

73. (i) **PRIOR** to lodging an application for a Subdivision Certificate, the applicant shall obtain the written approval of Council to the proposed road/street names. Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.
- (ii) Street signs shall be erected clearly indicating the interface between Bione Avenue and Martinelli Avenue in accordance with Tweed Shire Council's Standard Drawing 041.

The names shall be approved **PRIOR** to lodgement of any plan of subdivision in respect of the development.

[PSC0230]

74. All retaining walls are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002-Earth Retaining Structures and are structurally sound.

In addition to the above certification the following is to be included in the S88B Instrument to accompany the final plan of subdivision.

- i. A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.5m in vertical height.
- ii. Each lot burdened and or benefited by a type 1 wall as defined in AS4678-2002- Earth retaining Structures, shall contain a restriction to user advising the landowner of the need to monitor and maintain the structure in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

75. Prior to the issue of Subdivision Certificate for Stage 2 the acoustic barriers referred to in Condition 19 are to be constructed or alternatively these works may be bonded for an amount agreed to by Tweed Shire Council.

[PSCNS01]

#### **GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997**

1. Reticulated water supply shall comply with AS2419. Locations of fire hydrants are to be delineated by blue pavement markers in the centre of the road.

2. Any future development application lodged for this subdivision under section 79BA of the EP & A Act will be subject to the requirements as set out in Planning for Bushfire Protection, 2001.
3. The proposed road shall comply with 4.3.1 Planning for Bushfire Protection 2001.
4. Property access to lots 14 and 15 shall comply with 4.3.2 Planning for Bushfire Protection 2001. To achieve the required width for an access road, no obstruction or barrier (fence, etc) is to be erected between the access roads to the two lots.
5. There shall be a minimum of 20 metres from the vegetation on the south-western boundary to any proposed dwelling to be maintained as an 'Inner Protection Area' as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.
6. The proposed fire trail is to be deleted as the maintenance on private lots is impractical and the provision of a 20 metre Asset Protection Zone provides sufficient protection from the vegetation.

**REPORT:**

**Applicant:** Matilda Constructions Pty Ltd  
**Owner:** Mrs PTE Yates, Mr L Constantine & Mrs F Constantine  
**Location:** Lot 2 DP 871171, Lot 731 DP 48275 and Lot 515 DP 755740 No. 4A  
Oyster Point Road, Banora Point  
**Zoning:** 2(a) Low Density Residential  
**Cost:** \$300,000.00

**BACKGROUND:**

The subject land has been zoned 2(a) Low Density Residential at the commencement of the Tweed Local Environmental Plan 1987 and continues under the current planning instrument to be identified for the low density residential purposes.

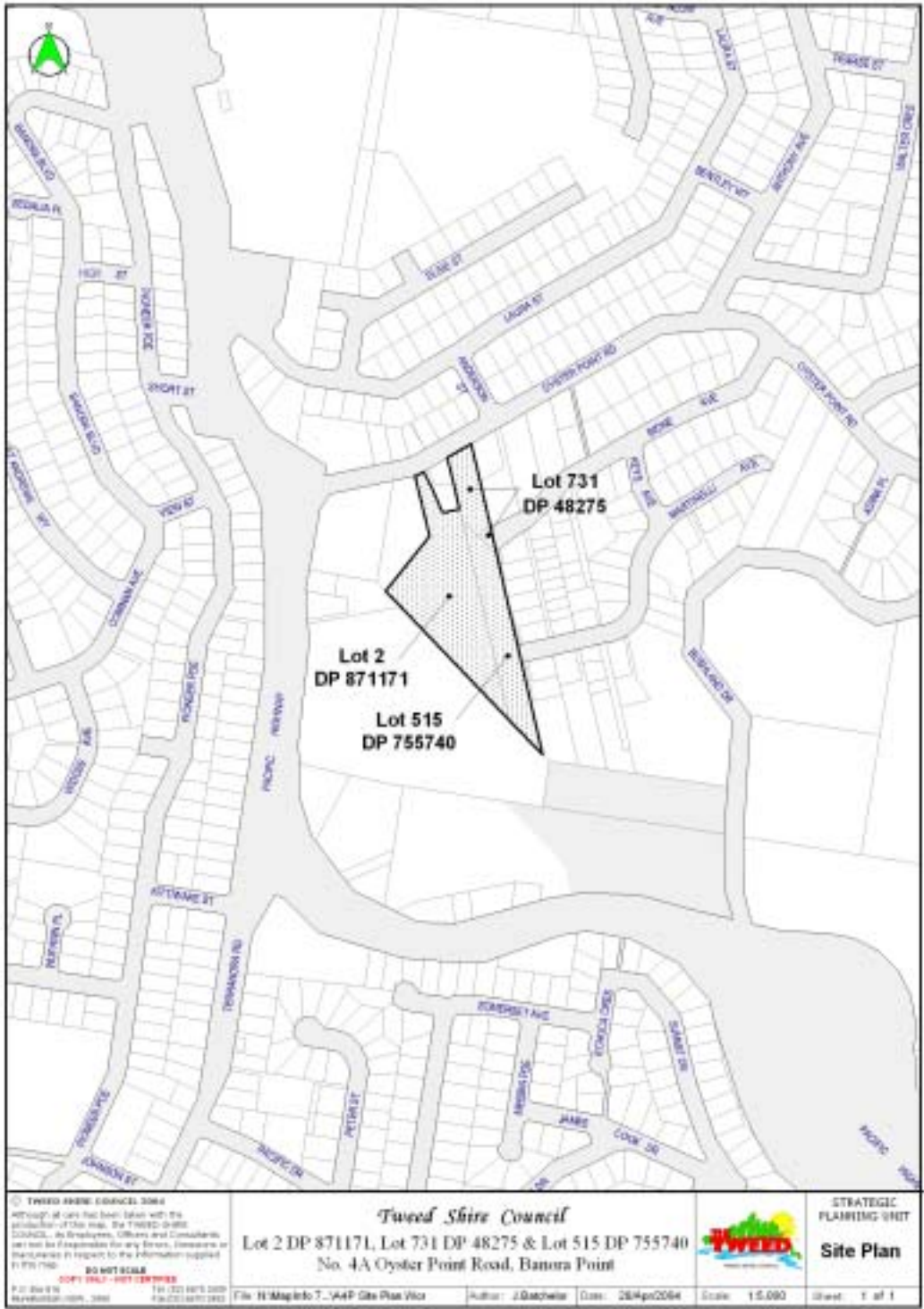
The land adjoining the subject land is zoned 5(a) Special Uses for Roads and Traffic Authority purposes under the Tweed Local Environmental Plan 2000. The adjoining land is to accommodate a future road corridor. As the Roads and Traffic Authority have an interest in the adjoining land the proposal was referred for comments.

The issue of future noise impacts on the residential subdivision was raised in the assessment. The RTA was requested to provide details on the alignment and design so that the applicant could engage an acoustic consultant to provide design details on any required acoustic fencing or restriction as to user on future dwelling houses.

However as the RTA are unable at this stage to provide the information required it has been suggested that the noise mitigation measures may be bonded or deferred commencement until such time as further design detail for the Sextons Hill Bypass is finalised.

In the absence of the final design the RTA refers Council to certain design manuals for indicative costs for reasonable treatment options and the code for housing design and layout. The recommended conditions of consent include the requirement for an acoustic report prior to the issue of a construction certificate for Stage 2 thereby ensuring the subdivision meets the RTA requirements and that future dwelling houses are provided with appropriate noise attenuation measures.

**SITE DIAGRAM:**



**CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**

**(a) (i) The provisions of any environmental planning instrument**

Tweed Local Environmental Plan 2000

The subject land is zoned 2(a) Low Density Residential under the Tweed Local Environmental Plan 2000. The primary objective of the zone is:

*"To provide for and maintain a low density residential environment with a predominantly detached housing character and amenity."*

The proposed subdivision layout provides allotments that can support detached housing and maintain a low density residential environment. The proposed subdivision is not considered to undermine the primary objective of the zone.

The proposed residential allotments are wholly within the 2(a) Low Density residential zone and the area of each allotment complies with the minimum of 450m<sup>2</sup> required for the erection of a dwelling house.

Clause 15 of the TLEP requires the provision of essential services or suitable arrangements being made prior to consent being granted. The applicant has provided engineering reports that conclude that there is adequate capacity in the existing sewerage system and water supply system to service the proposed residential lots. Council's Development Engineer has recommended conditions of consent to ensure servicing of the proposed subdivision.

Clause 35 of the TLEP ensures the management of acid sulfate soils. The subject land is not affected by acid sulfate soils. As such no management plan is required for the proposal.

North Coast Regional Environmental Plan 1988

Clause 12 of the REP states that Council shall not consent to development on rural land unless it has considered the likely impact on adjoining land, whether or not the development will result in loss of prime agricultural land. The subject land is zoned for residential purposes and does not adjoin any rural land. No further assessment is considered necessary under this clause.

Clause 15 of the REP provides for the protection of wetlands and waterways from development. The subject land does not drain into any wetland or stream area and is not likely to impact on a fishery. The proposed development does not require further assessment under this clause.



Clause 32B of the REP requires Council to take into consideration the Coastal Policy and North Coast Design Guidelines in relation to development of land within the coastal zone. The applicant has completed an assessment under the relevant provisions. There are no specific matters for which the proposal requires more detailed assessment. The site is not adjoining any foreshore open space areas.

Clause 43 of the REP requires densities to be maximised for residential development. As the subject land is required to provide the Bione and Martinelli link for connectivity not all of the area is able to be utilised. The applicant has submitted that a yield of 9 dwellings per hectare will result from the development. In achieving this density the proposed development is not considered to undermine any environmental attributes of the site.

Clause 66 of the REP requires Council when considering an application to subdivide land whether the community and welfare services are adequate. The subject land is within close proximity of Tweed Heads and future residents will be able to access existing services.

Clause 81 of the REP requires the consideration of potential impacts for development adjacent to the ocean or a waterway. The subject land is not within 100 metres of any waterway.

The proposed subdivision is not considered to be in conflict with any provision of the REP.

#### State Environmental Planning Policies

##### State Environmental Planning Policy No.55 - Remediation of Land

The applicant submitted preliminary information in relation to land contamination that was assessed by Council's Environmental Health Surveyor. The proposal is considered to have satisfied Council's requirements in relation to contaminated lands.

##### State Environmental Planning Policy No.71 - Coastal Protection

The subject land is not mapped as a sensitive coastal location.

Clause 18 of SEPP71 requires Master Plans for subdivision of land within a residential zone that is not identified as a sensitive coastal location into more than 25 lots unless the Minister has adopted a master plan for the land or has waived the need for a master plan.

As the proposed subdivision is less than 25 lots a master plan is not required. The proposed development is not considered to be in conflict with the provisions of Clause 8 of SEPP 71.

**(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

The proposed subdivision does not require any further assessment under the draft environmental planning instruments.

**(a) (iii) Development Control Plans (DCP's)**

Development Control Plan No.16 - Subdivision Manual

Council's Subdivision Engineer has assessed the proposed subdivision and raises no objection to the proposal. Conditions of consent have been recommended to ensure the subdivision meets Council's requirements.

**(a) (iv) Any Matters Prescribed by the Regulations**

The subject land is affected by the NSW Coastal Policy 1997. The proposed subdivision is not in conflict with the goals and objectives of this strategic policy.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Natural Environment

The subject land is characterised by Closed-grassland and contains regrowth vegetation dominated by Acacia, Macaranga and Glochidion sp. The applicants flora fauna consultant has advised that there are no ROTAP species on site. The applicant has submitted an eight part test which concludes that the proposed development will not result in a significant effect on the threatened species that may occur at or utilise the subject site. As such, a Species Impact Statement is not required.

Subdivision Layout

The proposed subdivision is designed around the link of Bione and Martinelli Avenues. The proposed subdivision has been designed based on the contours and the requirement for the connection of the two existing roads.

The proposed subdivision is undertaken in two stages. Stage 1 creates 3 lots being 2646m<sup>2</sup>, 3870m<sup>2</sup> and 15230m<sup>2</sup>. Stage 1 creates two lots for existing residences and one development lot for the proposed residential subdivision.

Stage 2 creates 15 lots ranging in size from 610m<sup>2</sup> to 2616m<sup>2</sup>. The average lot size is 750m<sup>2</sup>. The lot that is 2616m<sup>2</sup> accommodates additional area for bushfire asset protection zones.

The lot layout is predetermined by the need for the road connection. The proposed subdivision involves the creation of 15 new residential lots of which 12 lots will have the longest axis on the northern and southern elevation, thereby providing good opportunity for future housing design to meet energy efficient requirements.

The proposed subdivision creates a further 3 residential lots that are orientated more towards the eastern and western elevation. These 3 lots have adequate building envelopes that would enable good housing design. It is considered that all of the proposed allotments would have the ability to capture prevailing winds and are of suitable design.

The proposed subdivision design included the provision of a perimeter fire trail abutting adjoining land in the ownership of the NSW Roads and Traffic Authority. However the NSW Rural Fire Service have nominated a 20 metre wide asset protection zone rather than the perimeter road. The allotments that are adjacent to the RTA land have adequate lot depth to provide a 15 x 10 metres building envelope, and the required 20 metre wide asset protection zone.

Council's Development Engineer has not raised any objection to the design of the proposed subdivision. The proposed subdivision is considered to be of a reasonable design.

**(c) Suitability of the site for the development**

Traffic Noise

The proposed subdivision is located adjacent to land owned by the NSW Roads and Traffic Authority. The RTA were requested for information in relation to the design of the Sextons Hill Bypass to assist the applicant in the preparation of an acoustic report. Depending on the design of the new roadway, which could be a tunnel or elevated road the noise barriers for the proposed subdivision would vary.

In the absence of a final design for the Sextons Hill Bypass the RTA have advised that deferred commencement or bonding of noise barriers would be a solution. The RTA have indicated that the concept design will be finalised by mid 2005. They have also indicated that information can be provided from a nearby noise study upon its completion in the near future.

The noise abatement measures are required for Stage 2 of the proposed subdivision. Stage 1 does not necessitate noise barriers as it provides the boundary adjustment for the creation of the development lot. The recommended conditions of consent provide the opportunity for the applicant to proceed to the completion of Stage 1 and at Stage 2 issues of acoustic barrier design are to be finalised in consultation with the NSW Roads and Traffic Authority. The opportunity also exists in the recommended conditions that the acoustic measures can be bonded.

While it is preferable that all noise matters are finalised prior to determination of development applications, it is considered that in the absence of the final design for Sextons Hill the solution provided by way of the recommended conditions will ensure future residential lots meet the noise requirements of Council.

Bushfire Hazard

The proposed subdivision is identified as being integrated development and requires the general terms of approval from the NSW Rural Fire Service. The applicant submitted additional information required and on 11<sup>th</sup> February 2004 the general terms of approval of the NSW Rural Fire Service were issued.

**(d) Any submissions made in accordance with the Act or Regulations**

The proposed subdivision was notified to adjoining property owners. During the notification period two submissions were received. The following table addresses the issues raised.

Issue	Comment	Assessment
Natural Environment	Concern was raised that the area supports flocks of Black Cockatoos, and that the site should not be bulldozed. Careful assessment of the tree removal was requested.	The subject land does contain some vegetation that the applicants flora fauna consultant identified as being Closed Grassland. The consultant has completed an eight part test and concludes that the proposal is not likely to result in a significant impact. The site does not support any significant vegetation and it is considered that the proposed development does not warrant refusal on this issue.
Infrastructure	Concern was raised that the subdivision will need	Council's Development Engineer assessed the

	<p>to manage stormwater to not result in inundation of adjoining property. The addition of sewerage and capacity of the mains was raised as a concern.</p>	<p>issues raised in the submission and has no objection to the proposed subdivision. Conditions have been imposed to ensure the development meets Council's requirements.</p> <p>The proposal does not warrant refusal on this issue.</p>
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**(e) Public interest**

The proposed subdivision is in a prominent location and forms part of the residential precinct located at East Banora. The proposed subdivision is considered to be consistent with the intended use of the land.

The issue of bushfire raised by the proposed subdivision has been resolved with NSW Rural Fire Service issuing general terms of approval. The issue of traffic noise has not been able to be resolved due to the absence of the final design of the Sextons Hill Bypass.

The conditions that have been recommended for the proposed subdivision are considered to protect the general public interest of future residents with the requirement of an acoustic report being imposed prior to issue of a construction certificate for Stage 2. Noise attenuation measures will be identified at this stage for the future dwellings in the subdivision.

The proposed subdivision is not considered to be in conflict with the general public interest.

**OPTIONS:**

1. Approve the proposed subdivision in accordance with the recommended conditions of consent.
2. Refuse the proposed subdivision.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should the applicant be dissatisfied with the determination of the application they have a right for review in the NSW Land and Environment Court.

**POLICY IMPLICATIONS:**

The proposed development does not raise policy implications for Council.

**CONCLUSION:**

In conclusion the proposed subdivision is in accordance with Council's requirements for the subject zone. The subdivision is able to be conditioned to ensure it meets Council's standards.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS THROUGH THE GENERAL MANAGER

### REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT SERVICES

#### MATTERS FOR CONSIDERATION UNDER SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The following are the matters Council is required to take into consideration under Section 90 of the Environmental Planning and Assessment Act 1979 in assessing a development application.

#### MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
  - (a) the provisions of
    - (i) any environmental planning instrument; and
    - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
    - (iii) any development control plan, and
    - (iv) any matters prescribed by the regulations,that apply to the land to which the development application relates,
  - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
  - (c) the suitability of the site for the development,
  - (d) any submissions made in accordance with this Act or the regulations,
  - (e) the public interest.

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**1 [DS] Development Application DA03/1038 for a 7 Lot Subdivision at Lot 121 DP 755701, No. 50 Chinderah Bay Drive, Chinderah**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA03/1038 Pt1**

**SUMMARY OF REPORT:**

Council is in receipt of a development application for a seven (7) lot subdivision of the subject land. The subject land is zoned 2(a) Low Density Residential under the Tweed Local Environmental Plan 2000. The subject land is also identified as being Flood affected and as such the provisions of Development Control Plan No. 5 - Flood Liable Land need to be satisfied.

Council's Manager of the Water Unit has advised that the proposed subdivision does not satisfy the requirements in relation to residential development on flood liable land. The applicant has not demonstrated that the proposal is outside the extreme hazard zone. The information provided indicates that the ground levels are in the vicinity of RL 1.0m AHD. The Design Flood Level for this location is RL 3.3m AHD.

Council's Development Engineer has advised that the proposed subdivision does not meet the requirements of Development Control Plan No.16 - Subdivision Manual in relation to the number of allotments that will gain access from a Right of Way. Council's Policy states a maximum of five lots may be accessed by a right of way, rather than the proposed seven lots.

The above two points have raised concern with Council's Engineers in relation to the proposed development and as such the subdivision on the flood plain is not considered warranted.

**RECOMMENDATION:**

That Development Application DA03/1038 for a 7 lot subdivision at Lot 121 DP 755701, No. 50 Chinderah Bay Drive, Chinderah be refused for the following reasons: -

1. The subdivision proposal has not demonstrated that the subject land is outside the extreme flood hazard zone as defined by the Cameron McNamara Report dated September 1984 and as such has not been able to satisfy the requirements of Development Control Plan No.5 - Flood Liable Land.
2. The proposed subdivision does not adequately satisfy the matters contained in Clause 34 - Flooding of the Tweed Local Environmental Plan 2000.

3. The subdivision proposal is unacceptable in its design with seven lots accessing from a right of way and as such does not satisfy the requirements of Development Control Plan No.16 - Subdivision Manual.
4. The subdivision proposal and resultant fill of the site is considered to result in on flow stormwater impacts that will result in an unacceptable cumulative impact. Inadequate information has been provided in relation to the impacts from filling of the land to assess this issue.
5. The proposed subdivision is not considered to be in the general public interest as it is inappropriate development of the flood plain.

**REPORT:**

**Applicant:** Chris Lonergan & Associates Planning Consultants  
**Owner:** Geographe Point Pty Ltd and Rivercolt Pty Ltd  
**Location:** Lot 121 DP 755701, No. 50 Chinderah Bay Drive, Chinderah  
**Zoning:** 2(a) Low Density Residential  
**Cost:** \$400,000.00

**BACKGROUND:**

Council is in receipt of a development application for a seven lot subdivision of the subject land. The subject land is a parcel with an area of 9662m<sup>2</sup> and is in the 2(a) Low Density Residential zone. Chinderah has a number of larger parcels of land in the 2(a) Low Density Residential zone, however these have not been subdivided historically due to the impacts of flooding in Chinderah.

Development Control Plan No. 5 - Flood Liable Land is applicable to the subject land as it is flood liable. Chinderah experiences inundation as a consequence of river flooding. The adopted design flood level for Chinderah is 3.30m AHD and as such the adopted minimum floor level for residential development is 3.60m AHD.

Council's Engineering Services Division has assessed the suitability of the subject land for the proposal and conclude the proposal cannot be supported.

The proposed seven lot subdivision involves the creation of six residential lots ranging in size from 455m<sup>2</sup> to 661m<sup>2</sup>. The larger lot of 6330m<sup>2</sup> may in the future support a car park to service the Chinderah marina in the event that Department of Infrastructure Planning and Natural Resources favourably determine the application, alternatively it will remain as residential land. The six residential lots are accessed from a right of carriageway at the rear of the allotments.

The subdivision required a waiver of Master Plan under the provisions of State Environmental Planning Policy No.71. The application was held in abeyance rather than being rejected and following the receipt of the Department of Infrastructure Planning and Natural Resources advice to waive the Master Plan the application commenced processing.

At the time of lodgement the proposed subdivision triggered the Integrated Development provisions in relation the Rivers and Foreshore Improvement Act as the proposal includes works within 40 metres of the bank of a waterway. However the application was not identified as Integrated Development in relation to the Rural Fires Act 1997. With the gazettal of the new fire risk map in February 2004 the subject land is identified as being fire prone and as such to favourably consider the proposal, the general terms of approval from the NSW Rural Fire Service would be required.

The application is not accompanied by the required fire assessment and rather than requesting the applicant to go to the expense of engaging a consultant to complete the required report it is considered that the application should be determined. In the event that Council does not agree with Council's Engineers assessment and the recommendations of this report the applicant would be required to provide a bushfire assessment report and necessary fee for the NSW Rural Fire Service to assess and determine whether general terms of approval should be provided.

**SITE DIAGRAM:**



## CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

### (a) (i) The provisions of any environmental planning instrument

#### Tweed Local Environmental Plan 2000

The subject land is zoned 2(a) Low Density Residential zone under the Tweed Local Environmental Plan 2000. The primary objective of the zone is:

*To provide for and maintain a low density residential environment with a predominantly detached housing character and amenity.*

The proposed subdivision is not considered to be in conflict with the primary objective of the zone, as the allotments created would be able to support single dwelling houses and thereby provide a low density residential environment.

Clause 11 of the TLEP requires minimum lot sizes of 450m<sup>2</sup>. The proposed subdivision involves the creation of 7 lots. The six residential lots being created range in size from 455m<sup>2</sup> to 661m<sup>2</sup>, and therefore comply with the minimum lot size.

Clause 22 of the TLEP provides for development near designated roads. Chinderah Bay Drive is a Council designated road and as such Council may only grant consent to development of the land if satisfied, in summary, that:

- The development is unlikely to constitute a traffic hazard,
- The access would ensure through traffic on the designated road is not impeded,
- Proposed access will not prejudice future improvements to the designated road,
- The development type is not sensitive to traffic noise,
- The development will not detract from scenic values from the point of road users,
- Where practicable the access will be made from another road that is not designated.

While the subject land has frontage to a Council designated road the proposed subdivision is intended to be access from a right of carriageway at the rear of the residential lots. The proposal does not include access directly from Chinderah Bay Drive. The proposal is not likely to detract from scenic values of road users or prejudice future road improvements.

The proposed subdivision is not considered to be in conflict with the provisions of Clause 22 of the TLEP.

Clause 34 of the TLEP relates to flooding of land. The objectives of this clause are:

- *To minimise future potential flood damage by ensuring that only appropriate compatible development occurs on flood liable land.*
- *To minimise the adverse effect of flooding on the community.*

The clause states that Council must not grant consent to development on flood liable land unless it has considered:

- a) The extent and nature of the flooding hazard affecting the land, and
- b) Whether or not the development would increase the risk or severity of flooding of other land in the vicinity, and
- c) Whether the risk or severity of flooding affecting the development could be reasonably mitigated, and
- d) The impact of the development on emergency services, and
- e) The provisions of *Tweed Development Control Plan No.5 - Development of Flood Liable Land* and any other relevant development control plan.

In assessing the proposed development in relation to this clause Council's Manager of the Water Unit has not been able to be satisfied that the proposed subdivision is suitable based on the provisions of Development Control Plan No.5 - Development of Flood Liable Land.

Clause 34 of the TLEP has not been satisfied in that the applicant has not been able to adequately demonstrate the clause requirements for Council to be certain that the objectives of this clause are achieved.

Clause 35 of the TLEP provides for the management of acid sulfate soils. Council's Environmental Health Surveyor has assessed the submitted management plan and recommended that in the event that the subdivision is to be approved works would need to be undertaken in accordance with the plan. No further assessment of impacts to acid sulfate soils is required.

In summary the proposed development is not considered to have satisfied Clause 34 of the TLEP.

#### North Coast Regional Environmental Plan 1988

Clause 32B of the North Coast REP requires the consideration of the NSW Coastal Policy, Coastline Management Manual and North Coast Design Guidelines. The NSW Coastal Policy is relevant to the proposed development, and is addressed in this report.

Clause 43 of the North Coast REP provides development control in relation to residential development and requires densities to be maximised, road widths to not be excessive and public transport encouraged. The proposed subdivision is considered to maximise the density with a residue lot created that may in the future support further residential development.

The proposed subdivision is not considered to be in conflict with the provisions of the North Coast REP.

#### State Environmental Planning Policies

##### State Environmental Planning Policy No.55 - Remediation of Land

The applicant submitted a contaminated land assessment report and Council's Environmental Health Surveyor has assessed this report and does not raise any objection to the proposal in relation to contaminated lands.

##### State Environmental Planning Policy No.71 - Coastal Protection

SEPP 71 states that a consent authority must not grant consent for a subdivision of land within a residential zone if part of the land is in a sensitive coastal location. As the subject land is mapped in a sensitive coastal location the applicant sought a waiver from the Minister for the need for a master plan.

The Department of Infrastructure Planning and Natural Resources provided written advice on 10<sup>th</sup> November 2003 that the requirement for a Master Plan was waived.

In considering the proposed development Council needs to have regard to the relevant matters contained in Clause 8 of SEPP71. The proposed subdivision is not considered to be in conflict with the provisions of Clause 8 of SEPP 71.

#### **(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

The proposed development is for a residential subdivision. The nature of the development does not require assessment in relation to the existing draft environmental planning instruments.

#### **(a) (iii) Development Control Plans (DCP's)**

##### Development Control Plan No.5 - Flood Liable Land

The subject land is identified as being Flood Liable and as such the proposed subdivision is required to meet the requirements of DCP5.



The application states that the current level of the land is approximately 1.0m AHD and it is proposed to fill the land to 1.61m AHD being the centreline level of Chinderah Bay Drive. The adopted design flood level for the land is 3.30m AHD and the adopted minimum floor level for residential development for the site is 3.60m AHD.

From these levels it is clear that the subject land experiences significant flooding, and any future dwellings will be of elevated design to allow flood waters to flow across the site.

Subdivision of land is only permitted under DCP 5 if it is to existing roads and where each allotment has a minimum frontage of 17 metres. The proposal complies with the minimum frontage requirements and fronts an existing road. However access to the subdivision is not proposed from the existing road, rather a right of carriageway at the rear.

The proposed right of carriageway does not meet the requirements of DCP 16 and as such Council's Development Engineers would require such to be constructed and dedicated to a public road standard. To this end the proposed subdivision would not appear to be able to be designed to gain access from an existing public road. The creation of roads for subdivision is in conflict with DCP5.

There is also a requirement that infill development of residentially zoned land will be permitted with the exception of allotments within the extreme hazard zones identified in the Cameron McNamara report of September, 1984.

Council's Manager of the Water Unit has advised that the applicant has not demonstrated that the proposed development is outside the extreme hazard zone. The survey plan provided indicates ground levels in the vicinity of RL 1.0m AHD. The Design Flood Level for this location is RL 3.3m AHD.

Given the levels of the site and the applicant not adequately demonstrating the sites suitability for infill development it is considered that the proposal can not be supported. It is noted that upon requesting the applicant to demonstrate this aspect of the development minimal information was provided, and therefore Council's Engineers can not be satisfied in relation to the suitability of the site for subdivision and the provisions of DCP5

The proposed subdivision is considered unacceptable given the inability to demonstrate compliance with DCP5.

#### Development Control Plan No.16 - Subdivision Manual

Council's Development Engineer has assessed the proposed subdivision in relation to compliance with DCP 16 and has advised the following:

*"The right of carriageway proposed for the subdivision is not in accordance with DCP 16 - subdivisions manual; which states the maximum number of lots utilising a right of carriageway is 5. The subdivision has proposed 7 lots.*

*Greater than 5 lots requires a public road constructed to DCP 16's current road specification standards. If a public road is proposed, the application still does not comply with DCP 5 for proposed subdivisions to have frontage to existing roads only in the Chinderah / Fingal area.*

*The application is unclear in regards to the pavement width and construction methods for the road. A plan titled "proposed site and layout plans" prepared by Chris Lonergan & Associates states the right of carriageway is 8.5 metres wide (variable width). Martin Findlater & Associates also provided advice in a report titled Engineering Impact Assessment dated 24 April 2003. The report states "access to the residential allotments on site is proposed via a 6.5m wide reciprocal right of way, shared with the carpark".*

As the proposed subdivision would require the construction of the right of carriageway to a public road standard and dedicated accordingly the development would result in the creation of a new road. The creation of new roads to service the proposed subdivision would be in conflict with the provisions of Development Control Plan No.5 - Development of Flood Liable Land.

Council's Development Engineer has advised:

*"Access is not possible via Chinderah Bay Drive due to the constraints of Kingscliff Creek. The Kingscliff Creek and associated drain runs parallel and adjacent to the property boundary of Lot 121 DP 755701. Large culverts and a deep drainage canal are located in the road reserve in front of Lot 121, preventing direct access to Chinderah Bay Drive."*

Based on the above assessment the proposed subdivision would appear to have no alternative means of access than from the rear.

The proposed subdivision does not meet the requirements of DCP 16 as seven allotments are to be serviced by a right of carriageway, and then the requirement to construct this to a public road standard and dedicate as a public road is in conflict with DCP 5.

**(a) (iv) Any Matters Prescribed by the Regulations**

NSW Coastal Policy 1997

There are no reasons contained within the strategic goals of this policy to refuse the subdivision.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Impacts from Fill and Earthworks on Kingscliff Creek

The applicant has submitted that the filling operations are to occur in such a manner that the perimeter of the site is filled first, creating a perimeter bund. This is to control stormwater runoff from impacting on Kingscliff Creek during construction.

Department of Infrastructure Planning and Natural Resources did issue general terms of approval for the excavation associated with services trenches and drainage located adjacent to Kingscliff Creek.

It is noted that Council's Development Engineer has advised that this would seem to be an impractical solution as it will create a large sedimentation pond covering the entire site. The proposed stormwater bund would require an outlet with a sedimentation and erosion device, discharging to Kingscliff Creek.

In the event that Council is of the view the proposed subdivision has merit it may be necessary for further detail to be submitted to justify this construction method and satisfy Council's Engineers in terms of mitigation measures.

**(c) Suitability of the site for the development**

Flooding

From the assessment of the proposal contained under DCP 5 it is apparent that flooding is a significant issue for the site. Council has adopted controls for development on the flood plain within DCP 5. The applicant has not adequately addressed compliance with Council's controls for development on the flood plain and as such it is considered that the proposal can not be supported.

Department of Infrastructure Planning and Natural Resources have advised in correspondence on this application that the cumulative flood impacts due to intensification of development in Chinderah may be significant and may not be consistent with the NSW State Government Flood Policy.

The proposal raises a more strategic issue in relation to development of the flood plain and Council's controls in the area.

### Bushfire

The subject land is identified as being bushfire prone and as such will require the general terms of approval from NSW Rural Fire Service for the subdivision to be approved.

As the land was not identified to be bushfire prone until February 2004 the applicant did not submit the necessary assessment or referral fee. In the event that Council considers the proposal warrants approval the applicant should be requested to provide a bushfire assessment report and referral fee as the subdivision can not be favourably determined without the general terms of approval from the NSW Rural Fire Service.

#### **(d) Any submissions made in accordance with the Act or Regulations**

The proposed development was notified for a two week period during which no submissions were received.

#### **(e) Public interest**

In the absence of adequate justification for the proposed subdivision and the uncertainty as a result of DCP 5 not being demonstrated to be complied with it is considered that the proposed subdivision can not be supported. It is not in the general public interest for Council to vary from the controls in place for development on the floodplain.

#### **OPTIONS:**

1. Refuse the proposal for the recommended reasons.
2. Request the applicant to prepare a Bushfire Assessment Report and submitted the required fee for the NSW Rural Fire Service to enable the application to be assessed and if appropriate general terms of approval be obtained.

#### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should the applicant be dissatisfied with the determination he may seek to have the matter remedied in the NSW Land and Environment Court.

#### **POLICY IMPLICATIONS:**

Council's policy in relation to development of flood liable land has not been satisfied by the submitted engineering assessment. The policy implications of approving a subdivision that undermines Council's Development Control Plan No.5 - Development of Flood Liable Land are significant as such may result in an increase in residences in extreme flood hazard areas.

**CONCLUSION:**

The proposed subdivision is not considered to have demonstrated compliance with Council's controls fro the site. Council's Engineers have assessed the technical issues raised by the proposal and conclude that the application should not be supported for the reasons recommended.

**UNDER SEPARATE COVER:**

Nil.

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**2 [DS] Section 96 Application K99/0400.01 for an Amendment to Development Consent K99/0400 for Shops, Restaurants, Tourist Accommodation, Marina & Associated Car Parking Facilities - Chinderah Bay Drive and River Street, Chinderah**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA4030/3750 Pt8**

**SUMMARY OF REPORT:**

Council is in receipt of a Section 96 Application seeking an amendment to K99/400, which granted approval for a mixed development comprising shops, offices, restaurants, tourist accommodation and associated car parking facilities.

The proposed modification requests that the development consent be amended by allowing the approved tourist accommodation units (34 in total) to be used for permanent occupation (multi-dwelling housing). This necessitates an amendment to the approved plans to accommodate additional parking on the site, which the application proposes via the reduction in the size of the approved shopping centre from 500m<sup>2</sup> to 300m<sup>2</sup>.

It should be noted that the original consent has not yet been acted upon and no work has begun. However, the consent is still valid until 22 February 2006, as the consent was only considered operational from 22 February 2001 as this was the date that the deferred matters in accordance with Schedule A of the original consent were considered satisfied.

S96 of the Act specifies that on application being made by the applicant a consent authority can modify the development consent only if it is satisfied that the proposed modified development is substantially the same as the approved development and that all relevant consultations and submissions have been undertaken.

On review of this S96 application it is considered that the proposed amendment does not satisfy the provisions of S96 of the Act.

*"Multi Dwelling Housing"* is separately defined under the Tweed Local Environmental Plan (as opposed to the approved definition being *"Tourist Accommodation"*) and also has separate requirements for parking, setbacks, S94 Contributions, and the classification given to the building in accordance with the Building Code of Australia. The subsequent changes required as part of the proposed amendment are considered to make the application **not** substantially the same development. Additionally when reviewing the application on merit alone the application is not considered satisfactory having regard to the high hazard flood nature of the site or the required setbacks as required for multi-dwelling housing (permanent occupation).

Subsequently the application is recommended for refusal.

**RECOMMENDATION:**

That Section 96 Application K99/0400.01 for an amendment to Development Consent K99/0400 for shops, restaurants, tourist accommodation, marina & associated car parking facilities at Lot 1 DP 32406, Lot 1 DP 781888, Lot 2 DP 781888, Lot 3 DP 913262, Lot 12 DP 260722, Lot 21 DP 260722, Lot 462 DP 755701, Lot 463 DP 755701, Lot 470 DP 755701, No. 52-56 Chinderah Bay Drive & River Street, Chinderah be refused for the following reasons: -

1. The application is not considered to satisfy the requirements of S96 of the Environmental Planning & Assessment Act 1979 (as amended). The proposed S96 application is not considered to be substantially the same development as that originally approved by K99/400 on the 23 November 1999.
2. Permanent occupation is not appropriate within a high hazard flood storage area in accordance with Council's Development Control Plan No. 5 – Development of Flood Liable Land.
3. The application does not comply with the on site parking requirements contained within Development Control Plan No. 2 – Site Access and Parking Code.
4. The application does not achieve a suitable residential amenity for permanent occupation.
5. The application has not provided sufficient information to satisfy the requirements of Development Control Plan No. 39 – Energy Smart Homes Policy.
6. The application is not considered to be in the interest of the general public due to the potential pressure on public services (such as State Emergency Services) as a result of evacuations required during times of flooding.



## REPORT:

**Applicant:** Chris Lonergan & Associates Planning Consultants  
**Owner:** Geographe Point & Rivercolt Pty Ltd  
**Location:** Lot 1 DP 32406, Lot 1 DP 781888, Lot 2 DP 781888, Lot 3 DP 913262, Lot 12 DP 260722, Lot 21 DP 260722, Lot 462 DP 755701, Lot 463 DP 755701, Lot 470 DP 755701, No. 52-56 Chinderah Bay Drive & River Street, Chinderah  
**Zoning:** 3(d) Waterfront Enterprise  
**Cost:** \$3,200,000.00

## BACKGROUND:

K99/400 was originally approved on 23 November 1999 in a deferred and staged configuration, with all works to be undertaken on the foreshore and within the river to be subject to a separate development application. Subsequently Council received K2000/206, which approved Stage 2 of Chinderah Bay Marina - riverfront restaurant, kiosk, car park and marina. The subject application has no connection to K2000/206 or any other subsequent applications, which have been lodged involving the marina.

Since the original approval was issued in November 1999 Council has received three other S96 Applications as follows:

- K99/9400 was lodged on 13/12/1999 but later withdrawn on 8/02/2000;
- K99/8400 was lodged on 28/01/2000 and approved on 19/05/2000. The S96 approved the reconfiguration of the proposed parking areas, reconfiguration of the tourist units, increased landscaping and the relocation of the proposed vehicular access points/loading bays; and
- K99/7400 was lodged on 21/08/2000 and approved on 8/11/2000. The S96 amended the application to enable construction of the proposal over five individual stages.

The current amendment (K99/0400.01) now seeks to change:

1. Condition 6, which reads as follows:

*The development shall be completed in general accordance with Plan No. 1, 2, 3, 4 and 5 dated 9 December 1999, drawn by Peter Batley except where varied by these conditions.*

The applicant has requested that this condition be changed to indicate amended plans that reflect a reduction in the size of the approved Supermarket from 500m<sup>2</sup> to 300m<sup>2</sup>. This reduction in size results in the provision of four additional car parking spaces.

2. Condition 15, which reads as follows:

*The proposed unit accommodation is to be used for short term tourist accommodation only and not for permanent occupancy.*

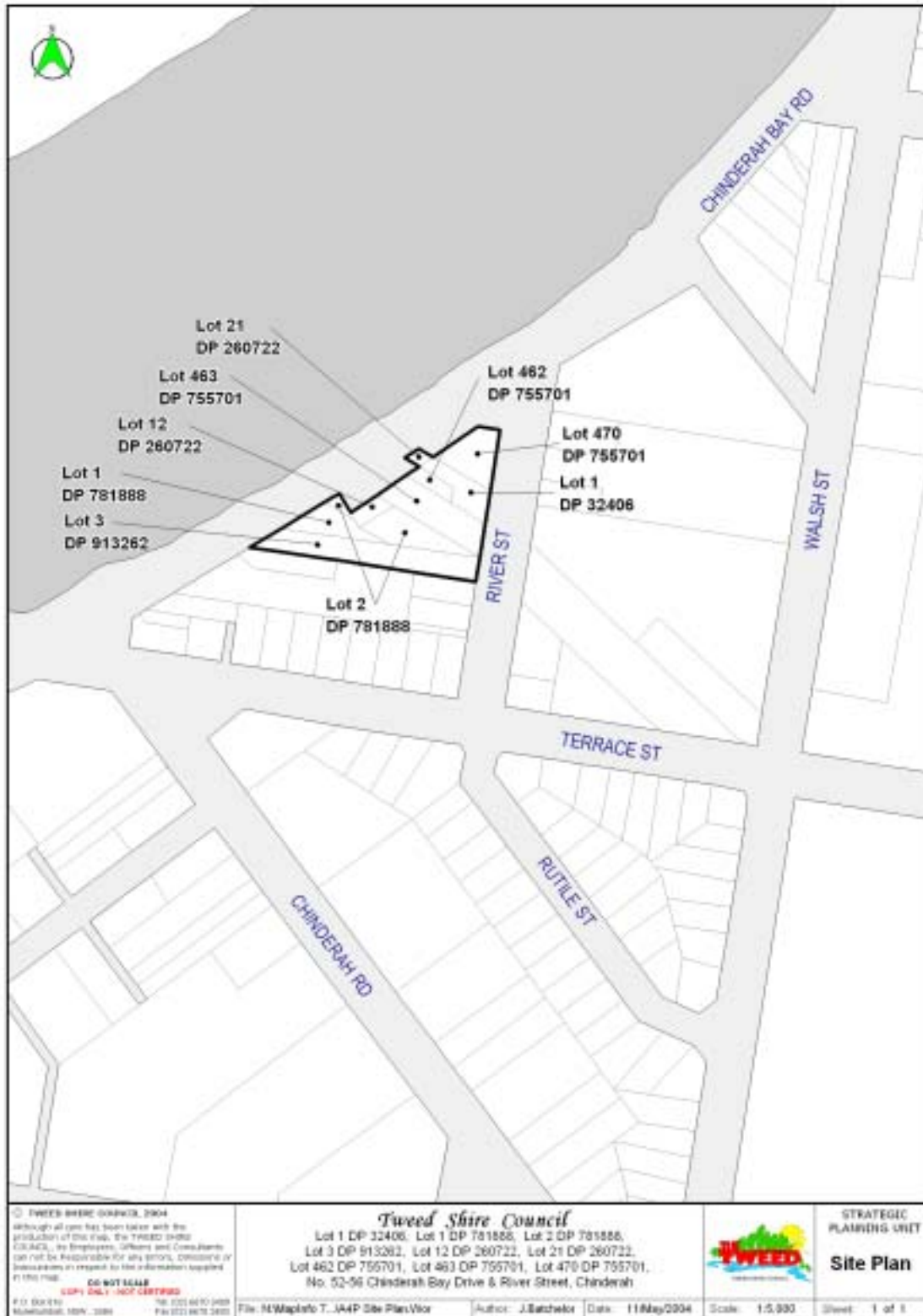
The applicant has stated that Condition 15 needs to be amended to enable the development to be as flexible as possible in terms of its land use options. The applicant would like the owners of some units to remain in short or long term residency, whilst other owners may choose to let their accommodation units out on a short term basis.

However, the current S96 application does not nominate which units will be used for what purpose but seeks complete flexibility to enable potential purchasers the freedom to switch between multi dwelling housing and tourist accommodation.

These changes require an assessment in accordance with S96 of the Act, S79C of the Act, Building Classifications in accordance with the Building Code of Australia, Council's Local Environmental Plan 2000, Council's Development Control Plan No. 2- Parking, Development Control Plan No. 6 – Multi Dwelling Housing, Development Control Plan No. 5 - Flooding, Development Control Plan No. 39 –Energy Efficiency and Council's S94 Contribution Plans.

The below assessment concludes that the proposed amendments are not considered appropriate having regard to S96 of the Act or to be in accordance with the nominated assessment criteria as specified by S79C of the Act.

**SITE DIAGRAM:**



## **CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**

S96 of the Act specifies that on application being made by the applicant a consent authority can modify the development consent only if it is satisfied that the proposed modified development is substantially the same as the approved development and that all relevant consultations and submissions have been undertaken.

Having regard for these criteria the variation is assessed as follows:

### **(a) (i) Environmental Planning Instruments**

#### Tweed Local Environmental Plan 2000

The subject site is zoned 3(d) Waterfront Enterprise under the provisions of the Tweed Local Environmental Plan 2000.

The original approval issued consent for 34 "Tourist Accommodation" units. Tweed LEP 2000 defines tourist accommodation as:

*"a building principally used for the accommodation of tourists but does not include a building elsewhere specifically defined in this Schedule."*

Tourist Accommodation in the format originally approved is classified as a Class 3 Building for the purposes of the Building Code of Australia. This Class generates the need for additional facilities having regard to disabled access.

The applicant has requested complete flexibility to enable potential purchases to switch between tourist accommodation and multi dwelling housing.

Multi Dwelling Housing is separately defined in the Tweed LEP 2000 as follows:

*"more than one dwelling on an allotment, but does not include a rural worker's dwelling."*

Multi Dwelling Housing in the format proposed would be classified as a Class 2 Building for the purposes of the Building Code of Australia. This Class does not generate the need for additional facilities having regard to disabled access.

Whilst both Multi-Dwelling Housing and Tourist Accommodation are permissible above non-residential ground level development (with consent) in the 3(d) zone these two uses are considered to be quite different from one another and have different assessment criteria specifically:

- Setbacks;
- Car Parking Requirements;

- S 94 Contributions; and
- Building Classification under the Building Code of Australia.

Therefore, the two uses are considered to be substantially different to one another and cannot be interchanged via a S96 Application. However, Council could consider a new development application for multi dwelling housing on the subject site.

There are no other specific Clauses in the Tweed LEP 2000 that have relevance having regard to the proposed modification.

#### North Coast Regional Environmental Plan 1988

There is nothing contained within the Plan that requires any further assessment having regard to the proposed modification.

#### State Environmental Planning Policy No. 71 – Coastal Protection

The original application was lodged prior to the introduction of this SEPP. Therefore, the proposed amendment does not require an assessment against SEPP 71.

#### **(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

There are no Draft Plans that are applicable to the assessment of this S96 application.

#### **(a) (iii) Development Control Plans (DCP's)**

##### Development Control Plan No.2 – Access and Car Parking

The original application K99/0400 was assessed in accordance with Council's previous version of DCP No. 2. However K99/8400 the second amendment was assessed having regard to the current provisions of DCP NO. 2. The conclusion of this amendment was that the modified proposal (K99/8400) required the provision of 121 on site parking spaces. The applicant proposed a total of 155 spaces 95 of which are on private land with a further 60 allocated as on-street spaces, thereby resulting in a shortfall of 26 on-site spaces. The application was granted a concession of 20% to the commercial component in accordance with DCP No 2, which lowered the unsupplied spaces to nine. The shortfall was considered satisfactory.

The current S96 application seeks changes to the approved 34 units from Tourist Accommodation, which requires one space per unit to Multi Dwelling Housing, which requires 1.5 spaces per unit. The following table calculates the required difference in parking number:

Standard	Requirement: Tourist Accommodation	Requirement Multi Dwelling Housing	Difference
On site car parking	1 on site per unit = 34	1.5 per dwelling = 51 25% to be marked for visitors = 13	17 17 additional onsite spaces required if approval of this application is granted

**Grand Total 121 spaces plus 17 spaces = 138 onsite parking spaces required**

The applicant has provided that the reduction in the size of the proposed supermarket results in a net increase in the number of onsite parking spaces by four and that this coupled with the Marina parking being provided on adjacent Lot 121 frees up parking within the site even more.

The current S96 Plans show 100 onsite parking spaces, and an additional 51 on street parking spaces within the River Street and Chinderah Bay Drive road reserves. However, 31 of these spaces will be considered on site upon finalisation of settlement of Lot 1 being part of the closed public road of Chinderah Bay Drive. Council's Property Officer has advised that settlement should be finalised by July 2004. If this settlement goes ahead the subject application will still be 7 onsite spaces short as the remaining 20 spaces are within the River Street Road Reserve.

Therefore, the proposed amendment results in 7 spaces short of the requirements of DCP 2. It is further noted that due to the proposed parking layout it would be difficult to enforce the allocation of spaces to the proposed residential units as no garages or security parking is proposed and all spaces could be occupied by customers rather than residents.

The proposed S96 application is not considered satisfactory having regard to the requirements of DCP No. 2.

Development Control Plan No. 5 – Development of Flood Liable Land

Council's Manager of the Water Unit has provided the following comments:

*"I am unable to support the proposal to change the use of the Units to allow long term residents or owner occupation.*

*The purpose of DCP 5 is to "set detailed standards for land development in order to minimise the adverse effect of flooding on the community".*

*Within Council's flood inundation maps the area concerned is classed mainly as high hazard flood storage. Clause 4.5 of DCP 5 lists development within the Chinderah area considered to be inappropriate. For high hazard flood storage areas, the following development is inappropriate; Dual Occupancy and Granny Flat, Movable Dwelling Parks and Caravan Parks making provision for long term residents. The objective of this clause is to prevent placing additional long term residents at risk in a flood event.*

*The original proposal and approved development was for Tourist accommodation. The impact of a flood event of this type of use is significantly less than the amended proposal.*

*The following factors were considered in reaching this conclusion.*

*For Residential Accommodation (long term) there are:-*

- 1. More people affected because of higher occupancy rates.*
- 2. People are less willing to evacuate because of complacency and attachment to the property and they have more belongings. This places a greater work load on emergency services.*
- 3. Longer Term Accommodation needs to be found as visitors/tourists can be more easily evacuated to their own home.*
- 4. The emotional impact is higher due to the greater number of people affected and greater amount of personal property affected.*

*In summary I am unable to support the proposed amendment to the original Development Application to allow long term residents within the units."*

Similar comments were received by the State Emergency Service which acknowledged that increasing the number of permanently occupied dwellings by 34 in a location such as Chinderah must increase the scale of the problem to be managed. This means the development will increase the burden on the SES and on the community in the times of flood.

The application is not considered to be consistent with the aims or objectives of Development Control Plan No. 5.

#### Development Control Plan No.6 – Multi Dwelling Housing

The proposed modification needs to be assessed having regard to the requirements in relation to DCP 6 – Multi Dwelling Housing. The original application was not assessed against this document as it does not relate to Tourist Accommodation (Council has no specific Development Control Plan for tourist development).

In commercial areas DCP6 only has requirements in relation to setbacks after the first 9m. Due to the unusual lot size and shape this criteria does not require further assessment. While the residential units do not require further assessment under DCP6 the following table has been compiled to demonstrate the deficiency of the design having regard to the lack of amenity that will be provided to any permanent accommodation if this development were to be approved.

Standard	Requirement	Variation/complies
Floor Space Ratio	0.5:1.0	Council does not enforce this criterion upon residential flat buildings.
Landscaped Area	80m <sup>2</sup> per unit = 2720m <sup>2</sup>	The proposed development provides minimal landscaping and therefore does not comply with this criterion.  <u>Does not comply.</u>
Setbacks from street boundary	6.0m to Chinderah bay Drive	The proposed units are located above the proposed offices and shops and are located along the boundary line and within the required setbacks for residential developments.  Does not comply.
Setback from the secondary frontage	3m to River Street	The proposed units are located above the proposed offices and shops and are located along the boundary line and within the required setbacks for residential developments.  <u>Does not comply.</u>
Side setbacks	3.0m	The proposed units are located above the proposed offices and shops and are located along the boundary line and within the required setbacks for residential developments.  <u>Does not comply.</u>
Front fences and walls	1.2m max if solid	The application does not detail any fencing.
Building Envelope	45° from 3.5m high at the boundary	As the building adjoins the common property boundary the proposed building would not comply with the building envelope. However, the S96 application has not submitted



Standard	Requirement	Variation/complies
		sufficient detail to demonstrate this non-compliance.  <u>Does not comply.</u>
Car Wash Areas	1 required per 10 units = 3.4	There are no car wash bays proposed.  <u>Does not comply.</u>

Development Control Plan No.39 – Energy Efficient Housing

Multi dwelling housing is required to assessed against the provisions contained within DCP No. 39. The applicant has not submitted a NatHERS certificate and has not demonstrated compliance with the energy efficiency requirements.

The proposed development does not comply with the requirements of DCP39.

Draft DCP No. 48 – Tweed Coast Building Heights

The Draft was originally exhibited in November 2002 and specified that a three storey commercial and residential development shall have a maximum height of 10 metres.

Since this time, extensive work has been done on the document to require the draft to be re-exhibited between 17 March 2004 and 14 April 2004. Therefore this application does require consideration against the re-exhibited version.

The proposed development does not comply with the objectives of the draft plan and has numerical non-compliances. The development is not considered satisfactory having regard to the draft, however this draft DCP has no statutory weight under the Environmental Planning and Assessment Act, 1979.

**(a) (iv) Any Matters Prescribed by the Regulations**

The subject land is affected by the coastal policy. The proposed modification is not considered to be in conflict with the policies and strategies contained in the coastal policy.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Privacy & Amenity

The proposed modification changes the nature of the site from tourist development (temporary stays) to potential full occupancy via multi dwelling housing. This raises the questions of residential amenity enjoyed by potential purchases given the commercial dominance. With commercial activity comes the associated noises such as loading and unloading, garbage collection, mechanical ventilation noise etc. The original application did not involve detailed acoustic analysis having regard to amenity due to the temporary stays involved in tourist accommodation.

The current S96 application does not adequately address this issue to ensure residential amenity is protected on this site.

**(c) Suitability of the site for the development**

Flood Liable Land

As detailed above the subject site is categorised as high hazard flood storage and is not considered to be appropriate to accommodate permanent living in a medium density arrangement. It is acknowledged that there would be no physical change to the approved building to facilitate this type of accommodation, however, there would be significant social implications such as the pressure on public services and facilities like the State Emergency Services in times of flooding if evacuations were needed to be undertaken. Furthermore, Council's Manager of the Water Unit was unable to support the application based on the physical constraints of the site. Subsequently the application is recommended for refusal.

**(d) Any submissions made in accordance with the Act or Regulations**

The proposed development was advertised and notified for a two-week period during which two objections were received. The following points details the issues raised in the submission.

- ***Is there any intent to develop the land or just obtain modification after modification to improve the sale perspectives?***

Comment:

The application has been lodged in accordance with the provisions of S96 of the Environmental Planning & Assessment Act 1979. Whilst the consent has not substantially commenced - the consent is still valid until 22 February 2006, as the consent was only considered operational from 22 February 2001 as this was the date that the deferred matters in accordance with Schedule A of the original consent were considered satisfied

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- ***How does this DA relate to the town centre development involving Marina resort etc?***

Comment:

K99/400 was originally approved on 23 November 1999 in a deferred and staged configuration, with all works to be undertaken on the foreshore and within the river to be subject to a separate development application. Subsequently Council received K2000/206, which approved Stage 2 of Chinderah Bay Marina - riverfront restaurant, kiosk, car park and marina. The subject application has no connection to K2000/206 or any other subsequent applications, which have been lodged involving the marina.

- ***Should SEPP 71 apply to this application?***

Comment:

The original application was lodged prior to the introduction of this SEPP. Therefore, the proposed amendment does not require an assessment against SEPP 71.

- ***Concern regarding development on the Chinderah Flood Plain;***

Comment:

As discussed in the above report the application is not considered appropriate having regard to DCP No. 5 - Development of Flood Liable Land. This submission contributes to the reasons for refusal of the Development Application.

- ***The planning Instruments must not be compromised;***

Comment:

These comments are concurred with and contribute to the recommendation for refusal.

- ***If there is a need for a supermarket, as per the original DA, where is the validation to reduce same now?***

Comment:

The application was not supported with sufficient documentation to analyse the need (or lack there of) for such a facility. Therefore this reason for objection contributes to the recommendation.

- ***The application taken individually may seem minor but it must be considered having regard to all previous applications.***

Comment:

The application has been assessed having regard to all the relevant criteria and has been assessed against the original Development Application as required by S96 of the Act.

- ***The proposed change would be substantial and differ from that originally approved, by removing the availability of tourist accommodation if the units were occupied permanently.***
-

Comment:

The application has been assessed having regard to all the relevant criteria and has been assessed against the original Development Application as required by S96 of the Act.

- ***The application seems to be seeking the 'back door' to a less stringent way of providing residential accommodation with less amenities, open space for children, and other regulatory requirements;***

Comment:

S96 of the Act enables the modification of a development consent subject to that application being considered to be substantially the same development as that originally approved. However, due to the level of new requirements for residential development the application has been recommend for refusal.

- ***The application is not in the public interest and would have considerable social impact to the point of representing an over development of the site.***

Comment:

The application has been assessed having regard to all the relevant criteria and has been assessed against the original Development Application as required by S96 of the Act. This submission has been considered in the assessment of the S96 Application and contributes to the recommendation for refusal.

**(e) Public interest**

The application is not considered to be in the interest of the general public.

The application requests variations to Council's planning controls and would result in substantially different development to that originally approved.

Furthermore, the application could potentially place pressure on public services (such as State Emergency Services) as a result of evacuations required during times of flooding.

Therefore the application has been recommended for refusal.

S96 of the Environment Planning & Assessment Act 1979

In determining this S96 modification, an assessment has been undertaken having regard to the relevantly applicable matters referred to in section 79C of the Environmental Planning & Assessment Act 1979.

It is considered that the proposed amendments **will not** result in substantially the same development as approved and therefore cannot be dealt with pursuant to Section 96 (2) of the Environmental Planning & Assessment Act, 1979.

### S94 Contributions

A Tourist Accommodation development requires less S94 Contributions than multi dwelling housing. Should the application be approved the applicable contributions would need to be re-calculated.

### **OPTIONS:**

1. Endorse the recommendation, which recommends refusal of the S96 application;
2. Approve the S96 application (however elements of the S96 application do not appear to be substantially the same development as required by the provisions of S96 and therefore further assessment in relation to substantially the same development may be required if this option is preferred).

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should Council refuse the S96 Application, the applicant has a right of appeal to the Land & Environment Court.

### **POLICY IMPLICATIONS:**

There is potential for this S96 Application to create an undesirable precedent, and an urgent need for Council to generate provisions relating to tourism development.

### **CONCLUSION:**

The proposed amendment has been assessed on its merits and has been assessed in the context of the variation only, as this is not an opportunity to re-visit the original determination.

Having assessed the S96 Application against the current applicable controls, and the provisions of S96 of the Act the application is considered to warrant refusal.

### **UNDER SEPARATE COVER:**

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**3 [DS] Development Application DA04/0030 - Residential Flat Building Consisting of 6 Units in a 3 storey configuration at Lot 3 Section 7 DP 758571, No. 244 Marine Parade, Kingscliff**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0030 Pt2**

**SUMMARY OF REPORT:**

Council is in receipt of a development application for a 3 storey residential flat building at 244 Marine Parade, Kingscliff. The application involves basement car parking, swimming pool, landscaping and six (6) three bedroom units.

The development application was reported to a Development Assessment Panel meeting of 5 May 2004 where concern was expressed regarding the level of encroachment into the building envelope. Therefore the application has been reported to Council for determination in light of the numerical non-compliances with Development Control Plan No. 6 mainly building envelope.

**RECOMMENDATION:**

That: -

1. Council utilises its assumed concurrence in relation to the North Coast Regional Environmental Plan Clause 32B – Overshadowing and the subsequent variation sought under SEPP 1 Development Standards; and
2. Development Application DA04/0030 for a residential flat building consisting of 6 units in a 3 storey configuration at Lot 3 Sec 7 DP 758571, No. 244 Marine Parade Kingscliff be approved, subject to the following conditions:

**"DEFERRED COMMENCEMENT"**

**This consent shall not operate** until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

## **SCHEDULE "A"**

### **Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.**

1. The applicant shall submit to Council for approval an appraisal carried out by a Geotechnical Consultant of the effect of the proposed excavation including any precautions considered necessary to protect such properties from damage on accordance with Tweed Shire Council's Building Excavation Dewatering Policy.
2. The applicant shall submit to Council documentation demonstrating General Public Liability Insurance to the value of \$5,000,000 which includes loss of support to neighbouring properties which is attributed to excavation vibration associated with the project in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.

## **SCHEDULE B**

**NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.**

### **GENERAL**

1. The existing structures should be demolished in accordance with the Demolition Work Plan prepared by Darryl Anderson Consulting which forms part of the development application.

The proposed development should be completed in accordance with the Statement of Environmental Effects and Plans Nos DA01, DA02, DA02b, DA03 -DA12, DA29 Issue B and the Landscaping Plan DA 30 & DA31 Issue A prepared by Bloc dcl and dated 01/01/2001, except where varied by these conditions:

2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property. [GEN0010]
3. Front external wall of the building is to stand a minimum of 6 metres from the front boundary of the property. [GEN0030]
4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0080]
5. The erection of a building in accordance with a development consent must not be commenced until:  
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and [GEN0120]



- (b) the person having the benefit of the development consent has:
  - (i) appointed a principal certifying authority for the building work, and
  - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
  - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
  - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
  - (ii) notified the principal certifying authority of any such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

- 6. All work shall comply with the Erosion and Sediment Control Plan, Cozens, Regan, Williams and Prove, December 2003.

[GENNS01]

- 7. All work shall comply with the Stormwater Management Plan Plan, Cozens, Regan, Williams and Prove, December 2003.

[GENNS02]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

- 8. Section 94 Contributions
  - (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

a.	Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) (Sector 6 - Kingscliff)	\$4740
b.	Open Space (Structured): S94 Plan No. 5	\$2280
c.	Open Space (Casual): S94 Plan No. 5	\$487
d.	West Kingscliff - Drainage: 0.0099 ha @ \$16070 DCP No. 9 S94 Plan No. 7	\$159.10
e.	Shirewide Library Facilities: S94 Plan No. 11	\$2012
f.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$396
g.	Community Facilities (Tweed Coast) (North Coast) S94 Plan No. 15	\$2460
h.	Emergency Facilities (Surf Lifesaving) (Remainder of Shire) S94 Plan No. 16	\$690
i.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$1224.63
j.	Cycleways S94 Plan No. 22	\$470
k.	Regional Open Space (Structured) S94 Plan No. 26	\$3437
l.	Regional Open Space (Casual) S94 Plan No. 26	\$643

[PCC0050/PSC0005]

9. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water: 3.5 ET @ \$4110 \$14385

Sewer: 3.5 ET @ \$3290 \$11515

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

10. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill and cut batters shall be obtained wholly within the subject land.

[PCC0090]

11. The basement car parking is to be protected against the inflow of water from Kingscliff Lane during storm events up to ARI 100 year intensity. A detailed design of the basement stormwater pump out system is to be provided designed for a storm event with a 10 year average return interval (ARI 10) and the consequences of pump failure and the 100 year ARI storm event must be addressed and included with the above details prior to the issue of a Construction Certificate.

[PCC0110]

12. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCC0190]

13. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development" . New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Specific requirements:
  - (i) An oil/grit arrestor shall be installed to remove pollutants generated from undercover and basement car parking areas, and must satisfy the following sizing requirements:
    - Storage Volume must be available for the combined Sediment Tank and Oil Storage Capacity to retain no less than 0.5m<sup>3</sup> per 1000m<sup>2</sup> of undercover/basement area.

- The minimum retained volume of any oil/grit arrestor is 0.75m<sup>3</sup>
- (ii) The designated car wash bay shall be constructed of permeable paving and/or be graded so that generated runoff is directed to grassed filter strips or landscaping, to maximize infiltration of Stormwater otherwise all runoff from the bay shall be collected and treated for oil, sediment and nutrient pollutants prior to discharge to the public Stormwater system.
- PCC0230]
14. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC0240]

15. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This may be achieved by on site detention (OSD), on site retention or a combination of both. Detention storage may be incorporated into surface depressions in landscaping or aboveground car parking areas. The maximum water depth under design conditions in aboveground vehicle parking areas shall be 200mm. OSD devices including discharge control pits (DCP) are to comply with standards in The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook, Third Edition, December 1999" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire. All these works and the connection to Councils drainage system shall be constructed in accordance with design calculations, plans and specifications to be submitted with the construction certificate application and approved by the Director of Engineering Services.

Roof water shall be conveyed to OSD devices by gravity means only. Driveway and basement water may be pumped to OSD devices, with all pump systems designed and installed according to AS/NZS 3500.3.2.1998 (National Plumbing and Drainage - Part 3.2: Stormwater Drainage - Acceptable Solutions). Pumps will not be accepted as a means of controlling discharge. Driveway and basement water must be treated prior to entering OSD Devices, roof water does not require quality treatment.

[PCC0260]

16. Pursuant to Section 68 of the Local Government Act, 1993 to ensure there is no unacceptable discharge to Councils sewerage system an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed to details approved prior to the issuing of a Construction Certificate. The development will be required to meet discharge standards in accordance with Councils Trade Waste Policy.

[PCC0290]

17. Erosion and Sediment Control During the Construction Phase of Development

(a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.

(b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

18. The Construction Certificate Plans are to demonstrate that the proposed building complies with the setback requirements of Development Control Plan No. 6. Specifically, all open balconies are not to encroach beyond 1.5m from a side boundary.

[PCCNS01]

## PRIOR TO COMMENCEMENT OF WORK

19. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0010]

20. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0030]

21. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised to the satisfaction of the Principal Certifying Authority and provided with a dish drain or similar at the base or otherwise retained to the satisfaction of the Principle Certifying Authority. All retaining works shall be completed to the satisfaction of the Principal Certifying Authority prior to start of building work. Please note timber retaining walls are not permitted.

[PCW0040]

22. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
- (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
  - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
  - (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
    - (A) the method of protection; and
    - (B) the date of installation of the system; and
    - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
    - (D) the need to maintain and inspect the system on a regular basis.

### **Note:**

Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

[PCW0050]

23. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council, or
- (c) if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

24. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0070]

25. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:

- i. The person must, at the person's own expense:
  - a. preserve and protect the building from damage; and
  - b. if necessary, underpin and support the building in an approved manner.
- ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

26. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0090]

27. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.



Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

[PCW0190]

28. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW0210]

29. Prior to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-
- a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
  - b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

[PCW0270]

30. Residential building work:
- (1) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
    - (a) in the case of work for which a principal contractor is required to be appointed:
      - (i) in the name and licence number of the principal contractor, and
      - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
    - (b) in the case of work to be done by an owner-builder:
      - (i) the name of the owner-builder, and
      - (ii) if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
  - (2) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0290]

31. Prior to the commencement of any demolition works all house drainage connections are to be suitably capped off by a licenced plumber and an inspection of the work obtained from Council.

[PCW0300]

32. Prior to the commencement of works sedimentation and erosion control measures shall be installed to the satisfaction of the Director of Planning and Environment.

[PCWNS01]

### **DURING CONSTRUCTION**

33. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

[DUR0010]

34. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR0040]

35. The provision of 12 off street car parking spaces. Three of these spaces are to be specifically nominated for visitor use and shall be signposted accordingly and reflected as such on any subsequent Strata Application. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.

[DUR0050]

36. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
  - The chute shall be located in a position approved by the Principal Certifying Authority.
  - A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0070]

37. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.

[DUR0080]

38. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".

[DUR0090]

39. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.

[DUR0100]

40. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0130]

41. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.
42. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979. [DUR0150]
43. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied. [DUR0170]
44. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - b. building involves the enclosure of a public place,
- a hoarding or fence must be erected between the work site and the public place.
- If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- Any such hoarding, fence or awning is to be removed when the work has been completed. [DUR0220]
45. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system. [DUR0240]
46. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken. [DUR0430]

47. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering Services. Twenty four (24) hours notice is to be given to Council's Engineering Services Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0470]

48. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Marine Pde. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 3% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. The footpaving is to be located 800 millimetres from the property boundary. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and maintained unvaried across the (any) driveway cross-section. An inspection of the formwork is to be arranged with Council's Engineering Services Division prior to concrete being placed.

Note: The existing nature strip level is to be lowered to top of kerb height to permit construction of a concrete footpath to the Marine Parade frontage.

[DUR0520]

49. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are to be submitted to and approved by the Director of Environment and Community Services prior to installation

[DUR0670]

50. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.

[DUR0850]

51. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

[DUR0870]

52. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays. [DUR0900]
53. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence. [DUR0910]
54. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0920]
55. The burning of builders waste on site by open fire is prohibited. [DUR0940]
56. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development. [DUR0980]
57. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning. [DUR1000]
58. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- internal drainage, prior to slab preparation;
  - water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - external drainage prior to backfilling.
  - completion of work and prior to occupation of the building. [DUR1020]
59. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.  
B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR1030]

60. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR1040]
61. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises. [DUR1070]
62. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged. [DUR1100]
63. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR1110]
64. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR1130]
65. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR1160]

66. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
  - ii. Required toilet facilities have been provided on the site.
  - iii. A sign has been erected on the site identifying:
    - Lot number
    - Builder
    - Phone number of builder or person responsible for site.
  - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
  - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000. [DUR1200]

67. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1210]
68. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services. [DUR1230]
69. Swimming Pools (Building)
- A. The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).
- B. Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- C. The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- D. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction.
- a. Steel reinforcing prior to the pouring of concrete.
- b. Swimming pool safety fencing prior to filling the pool with water.
- E. In the event that Council is not utilised as the inspection/certifying authority:-
- a. Within seven (7) days of the filling of the pool a Compliance Certificate in the prescribed form shall be submitted to Council together with the prescribed fee, by the Accredited Certifier to certify that all works have been completed in accordance with the approved plans and conditions of Consent and that the swimming pool safety fencing has been installed and complies with AS 1926.
- b. The Certifying authority is to be given 24 hours notice in writing for an inspection of the swimming pool safety fencing prior to filling the pool with water. [DUR1280]
70. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9. [DUR1290]
71. The site shall not be dewatered [DURNS01]
72. Acid Sulphate Soils shall not be exposed or disturbed [DURNS02]
73. The fence to Marine Parade shall not exceed 1.2m in height.

The northern side boundary fence is to be tapered from 1.8m in height down to 1.2m in height for a length of 5m from the property boundary with Kingscliff Lane to ensure adequate site distance is available from the basement ramp.

[DURNS03]

74. The northern elevation is to be extensively landscaped (high dense plantings) for the length of the exposed podium to create a privacy screen between the subject site and the existing property to the north.

[DURNS04]

75. The side boundary fence to the northern elevation is to be a minimum of 1.8m when measured from existing ground level within the northern adjoining property.

[DURNS05]

76. All works (including support structures for excavation such as sheet piling) are to occur within the confines of the subject property boundaries.

[DURNS06]

77. The proposed roof terraces are not to be covered in any way.

[DURNS07]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

78. Prior to occupation of the building or the issue of a Subdivision Certificate, all disused invert crossings are to be removed and replaced with kerb and gutter and all disused driveway across the footpath are to be removed and replaced with topsoil and turf to the satisfaction of the Director, Engineering Services.

[POC0080]

79. Prior to the issue of an occupation certificate, a "satisfactory inspection report" issued by Council must be produced for S68h2 permanent Stormwater quality control devices. This inspection report must be obtained from Council prior to backfilling of any of the S68h2 approved devices.

[POCNS01]

#### **USE**

80. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.

[USE0040]

81. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.

[USE0160]

82. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.

[USE0170]

83. Swimming Pools (Building)

A. It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).

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B. The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).

[USE0250]

84. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE0260]

85. All wastes shall be collected, stored and disposed to the satisfaction of the DECS. Wastes shall be presented at the kerb in a Council approved wheelie bin for collection. A screened, graded, and drained bin storage area shall be provided within the boundary of the property.

[USENS01]

86. Use of the swimming pool, spa pool or lighting shall not be permitted to impact the amenity of any other premise

[USENS02]

## REPORT:

**Applicant:** Jar Developments Pty Ltd  
**Owner:** Jar Developments Pty Ltd  
**Location:** Lot 3 Section 7 DP 758571 No. 244 Marine Parade, Kingscliff  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$2,000.000

## BACKGROUND:

Council is in receipt of a development application for the demolition of the existing buildings located on the subject land and the erection of a multi-dwelling housing development comprising 6 x three (3)-bedroom units within a three-storey building.

The subject site is regular in shape and located along the prominent Marine Parade, Kingscliff between its intersection with Terrace and Ocean Streets. The site has an approximate 22m frontage to both Marine Parade and Kingscliff Lane and an approximate depth of 39m to create a total site area of 860m<sup>2</sup>. The site level varies between R.L. 8.02m to Marine Parade and R.L. 6.8m to Kingscliff Lane. It should also be noted that the site steps down to Marine Parade itself, which gives the site an elevated appearance. The surrounding development is characterised by mainly detached dwelling houses of up to two storeys in height with scattered residential flat buildings in the vicinity at a maximum height of three storeys.

The proposed development adopts a ground floor level of RL 8.4m with basement below. The complex incorporates the provision of a pool, landscaping, one car wash bay, a garbage storage area, and a minimum of two private balconies for each unit. The complex also accommodates a basement car park, located off Kingscliff Lane, which services the development. The basement includes 12 car parking spaces. This allows for each unit to have at least one exclusive space with 6 remaining spaces, 3 of which are to be specifically nominated for visitor use.

The proposed unit development is to be constructed from brick with a coloured rendered block finish with large amounts of glass balustrade and stone feature cladding with a colour bond metal roof sheeting to create a contemporary building form. The building includes additional pergola coverings to provide the option of shade.

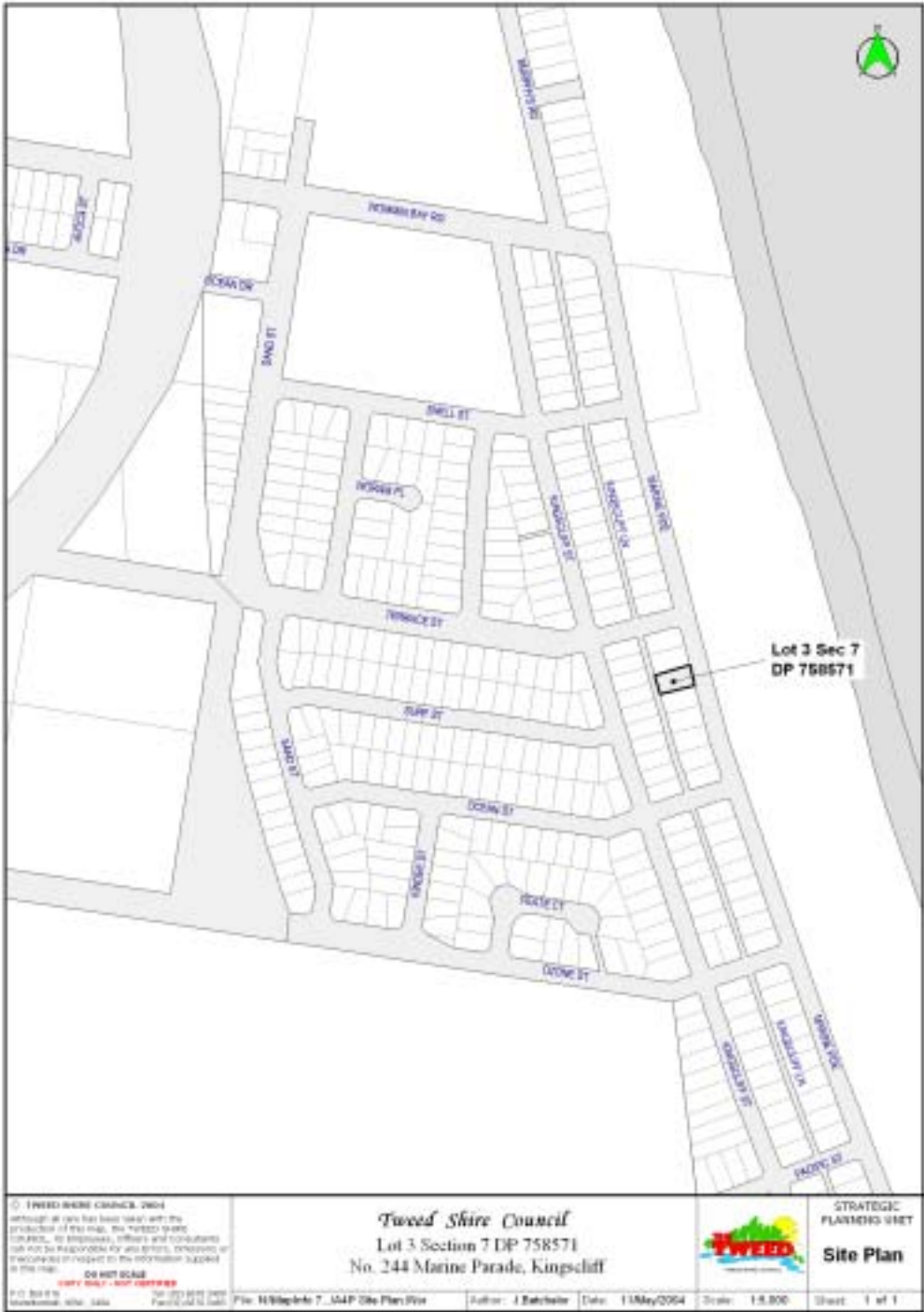
The development application is accompanied by a SEPP 1 Objections to vary:

1. Clause 32B – Overshadowing of a Reserve to the North Coast Regional Environmental Plan 1988.

In addition to this formal variation requests the application has a few numerical non-compliances with Council's Development Control Plan No. 6 – Multi-dwelling Housing. These include floor space ratio and building envelope. The applicant has accompanied the application with written justifications for these variations that specifically address the acceptable solutions detailed in the plan.

Whilst these variation requests are assessed individually in the following report, it is concluded that the variations sought are considered reasonable, having regard to the design quality of the building.

**SITE DIAGRAM:**



**CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**

**(a) (i) The provisions of any environmental planning instrument**

The subject land is zoned 2(b) under the Tweed Local Environmental Plan 2000. The proposed development is permissible with the consent of Council in the subject zone. The primary objective of the zone is:

*To provide for and encourage development for the purposes of medium density housing that achieves good urban design outcomes.*

It is considered that the proposed development is consistent with the primary objective of the zone by creating a design, which utilises the sites topography, and available views to the ocean and to Mt Warning.

Clause 15 of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. The subject land has the benefit of services and is considered able to support the proposed development.

Clause 16 of the TLEP requires development to be carried out in accordance with the height limitation plan. The subject land is identified as having a three-storey height limitation with an objective to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.

The applicant has provided detailed plans, which indicate that the building is proposed in a three-storey configuration. Whilst the application incorporates two roof decks the areas are not covered in any way and do not constitute an additional storey. The proposed height is considered to comply with the nominated height control.

Clause 36 of the TLEP requires Council to consult with the Department of Land and Water Conservation where Council is of the opinion that the site may be subject to coastal erosion. Department of Land and Water Conservation have advised that from the Tweed Shire Coastline Hazard Definition Study the site lies landward of the maximum 100-year hazard zone.

As such it is considered that the advice from Department of Land and Water Conservation does not raise any issues in relation to coastal erosion that would require further investigations by the applicant.

The proposed development is considered to generally comply with all of the relevant provisions of the TLEP.

North Coast Regional Environmental Plan 1988 (NCREP 1988)

Clause 32B of the NCREP provides that in determining an application the consent authority should have consideration for documents such as the NSW Coast Government Policy and further should consider the impact that potential shadow may have on open space before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time).

The proposed development is generally consistent with the design guidelines contained in the documents listed in subclause (2), many of which have been incorporated into the Tweed Heads 2000+ Strategy and DCP 6. The development has been designed generally having regard to these requirements.

However, the proposed development does result in the overshadowing of the reserve opposite the subject site. In this regard the overshadowing plans indicate that some overshadowing will occur at and before 6.30pm mid summer (EDST) whilst no overshadowing will occur before 3pm mid winter. The expected shadow cast will be minor and encroach only onto foreshore reserve in the vicinity of the public foreshore car park adjacent to the Marine Parade Road Reserve. This will affect land immediately opposite the site that is currently used for both passive and active recreation.

Subsequently, the applicant has lodged a SEPP 1 Objection to this standard, which reads as follows:

- *At 6.30pm mid summer, shadows cast by the proposed buildings will only encroach onto a small area of the foreshore reserve in the vicinity of the public foreshore car park adjacent to the Marine Parade Road reserve (See Figure 3 of Statement of Environmental Effects).*
- *At the stated time, the shadows cast by the proposed buildings would not extend to any beach areas and therefore will not impact on sunbathers and surfers.*
- *The area affected is separated from the main park area by a footpath, which is located nearby the car park area. Therefore due to the minor area and location of the building shadow, the proposal is unlikely to impact upon users of the foreshore open space in any significant way."*

It may be concluded that achieving the objective of no overshadowing of open space in urban environments may not be attainable in all circumstances. Having regard to Council's planning controls over the subject land it is considered that in order to achieve the development potential of the land a level of overshadowing will occur. The objective of clause 32B cannot be fully realised without adversely impacting upon the development yield of the site, which would be inconsistent with Council's controls. It is further noted that:

- The area to be overshadowed does not provide for any significant vegetation.
- The proposed level of overshadowing is consistent with that provided by other development that have recently been approved or constructed.
- The open space area in question is extremely large and extends for a depth of approximately 100m and a distance of approximately 1.3km. Accordingly, several alternative areas will remain available for the use of the public in the unlikely event that overshadowing does adversely impact upon users of the area.
- The proposed overshadowing in no way precludes the future use or re-classification of the adjacent reserve.
- No overshadowing will occur before 3pm in mid winter.
- No overshadowing of the adjacent beach will occur.
- No impacts will occur in relation to the existing or future landscaping or specific stands of vegetation in the adjacent open space area.

Therefore, having regard to the arguments above and the objectives of the REP the SEPP 1 objection is considered to have merit and in this instance be considered unreasonable and unnecessary.

Clause 43 of NCREP 1988 provides that the consent authority shall consider among other things density, environmental constraints, and road widths.

The proposed density is considered to be a reasonable response to the existing land use character of the area and will not result in the creation of any adverse physical impacts upon the locality. Further, the existing road widths are not excessive for the function of the proposal and a detailed sedimentation and erosion control plan will be enforced in relation to the construction.

The proposal is considered to be consistent with the relevant provision of Clause 43 of NCREP 1988.

#### State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

In accordance with the provisions of the SEPP the applicant has provided a detailed Design Quality Statement addressing context, scale, built form, density, resource energy and water efficiency, landscaping amenity, safety and security, social dimensions and aesthetics. The statement concludes by acknowledging the overall aesthetics that provides a desirable 'Beach Setting' and reinforces a "sense of place", which is in keeping with the future character of the Kingscliff and surrounding areas. It is considered that the proposed building will be prominent, however the height of the building (bulk) will be offset by good urban design and articulation that has been incorporated.

The following table details the principles and requirements of the SEPP and provides comment in relation to the proposed development:

Principle	Requirement	Complies/variation
Context	New buildings will contribute to the quality and identity of the site	Complies
Scale	The proposed bulk and height needs to achieve the scale identified for the desired future character of the area	Complies, refer to LEP and DCP 43 requirements
Built Form	Appropriate built form in terms of building alignments, proportions, building type and the manipulation of building elements	Complies
Density	Density appropriate for the site and its context in terms of floor space yields	Generally complies, refer to DCP 6 requirements
Resource Energy and water	Efficient use of natural resources energy and water through out its full life cycle including construction	Complies, refer to DCP 39 requirements
Landscape	Landscape design should optimise useability privacy and social opportunity equitable access and respect for neighbours amenity and provide for practical establishment and long term management	Complies
Amenity	Provide amenity through the physical spatial and environmental quality of a development	Complies.
Safety and Security	Optimise safety and security both internal to the development and for the public domain	Complies, surveillance of the street is provided.
Social Dimensions	The development should optimise the provision of housing to suit the social mix and needs of the future community	Complies, development is of a standard for permanent occupation.
Aesthetics	Aesthetics should respond to the environment and context and contribute to the desired future character of the area	Complies, the proposal is of a high standard and will improve the built form of Marine Parade.

#### State Environmental Planning Policy No. 71 – Coastal Protection

Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development is considered compatible with the intent for the development of the locality.



**(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

Draft Tweed Local Environmental Plan No. 46 was exhibited between 16 April 2003 and 14 May 2003 and detailed an amendment to the definition of a storey to reflect the finished ground level rather than the natural ground level in addition to incorporating that any space in excess of 4.5 metres should be categorised as two storeys. This amendment has since been re-visited and is proposed to be adopted in accordance with Council’s resolution from the meeting of the 3/03/2004. However, this amendment does not have an affect on the assessment of this application and would not change the technical definition of the number of storeys in this building.

**(a) (iii) Development Control Plans (DCP’s)**

Development Control Plan No.2 – Access and Car Parking

Off street car parking needs to be supplied in accordance with DCP2. The following table assesses the proposed development in relation to the requirements of the DCP.

<b>Standard</b>	<b>Requirement</b>	<b>Complies/variation</b>
On site car parking	1.5 per dwelling 25% for visitors = 9 spaces and 2.25 marked for visitors	The basement includes 12 car parking spaces. This allows for each unit to have one exclusive space with 3 dedicated visitor car parking spaces (with three residue spaces remaining that can be allocated to a unit or form additional visitor parking). An additional car wash bay is located at ground level off Kingscliff Lane. All spaces are required to be signposted accordingly. This complies with the requirements of DCP 2. However, three unburdened spaces in the basement will need to be marked as visitor car parking spaces and maintained accordingly.

The proposed development is considered to comply with DCP 2 (subject to the recommended conditions of consent) and ensures that there is adequate parking on site for each unit and their visitors.

Development Control Plan No.6 – Multi Dwelling Housing

The requirements for the proposed development in relation to DCP 6 are assessed in the following table:

Standard	Requirement	Variation/complies
Floor Space Ratio	0.5:1.0	<p>The total floor area of the units excluding the basement is 900m<sup>2</sup>. The site area is 860m<sup>2</sup>. The floor space ratio is 1.04:1 While this exceeds the allowable floor space ratio it is considered that in the medium density zone the proposed development is reasonable.</p> <p><u>See further assessment below.</u></p>
Landscaped Area	80m <sup>2</sup> per unit = 480m <sup>2</sup>	<p>The proposed development provides 486m<sup>2</sup> and therefore complies with this criterion.</p> <p><u>Satisfactory</u></p>
Setbacks from street boundary	6.0m to Marine Parade	<p>The main building is setback 9m from Marine Parade with open balconies at a minimum of 6m from Marine Parade.</p> <p><u>Complies.</u></p>
Setback from the secondary frontage	3m to Kingscliff Lane	<p>The main building is setback 5.5 metres from Kingscliff Lane. With open balconies at a minimum of 4m</p> <p><u>Complies.</u></p>
Side setbacks	3.0m	<p>The proposed setbacks are at 4m, which easily comply with the 3m requirements. The proposed open balconies encroach to within the allowable 1.5m in accordance with Clause 3.3.3 (A2) of DCP No. 6. However, the balconies closest to Marine Parade encroach within the setback by a further 0.2m for a length of 0.9m.</p>

Standard	Requirement	Variation/complies
		<u>See further assessment below.</u>
Podium	0m setback if <0.5m out of ground	0m – 0.78m setback (up to 1.2m out of ground).  <u>See further assessment below.</u>
Front fences and walls	1.2m max if solid	The proposed plans do not show fence details to Marine Parade. Therefore a condition of consent will be imposed specifying a maximum height of 1.2m to Marine parade in accordance with DCP No. 6.  The rear timber-paling fence is shown at 1.8m to screen the garbage bin storage area and to provide privacy surrounding the pool and BBQ area. This area is located furthest away from the driveway and therefore adequate site distances have been provided.  <u>Satisfactory.</u>
Building Envelope	45° from 3.5m high at the boundary	Encroachments exist.  <u>See further assessment below.</u>
Car Wash Areas	1 required per 10 units.	The car wash bay is proposed at the ground level, which is accessible from Kingscliff Lane. A condition shall be imposed to identify the space as a car wash bay.  <u>Complies.</u>

### Floor Space Ratio

Council Development Control Plan No. 6 nominates that multi-dwelling housing shall not have a FSR of greater than 0.5:1. However this criterion has never been adopted for assessment for residential flat buildings. However, the total floor area of the units excluding the basement is 900m<sup>2</sup>. The site area is 860m<sup>2</sup>. The floor space ratio is 1.04:1. While this exceeds the allowable floor space ratio it is considered that in the medium density zone the proposed development is reasonable and consistent with other recently approved development in the vicinity.

### Setbacks

Whilst the proposed setbacks to the main wall and the majority of the proposed open balconies comply with the provisions of DCP No. 6, the proposed balconies closest to Marine Parade further encroach within the setback by a further 0.2m for a length of 0.9m. This area comprises a tapering edge, which the applicant claims is a *"feature element of the building design which is unlikely to result in any adverse amenity impacts"*. These comments are not concurred with. Having regard to the proposed building envelope encroachments it is considered necessary to ensure that the building setbacks comply with the requirements of the Plan. Therefore it is recommended to impose the following condition of consent ensuring that all setbacks comply with the requirements of DCP No. 6:

*"The Construction Certificate Plans are to demonstrate that the proposed building complies with the setback requirements of Development Control Plan No. 6. Specifically, all open balconies are not to encroach beyond 1.5m from a side boundary."*

Subject to the enforcement of this condition the proposed setbacks are considered satisfactory.

### Podium

The applicant has provided that:

*"The proposed podium is designed to achieve a 1.2m clearance of ground level in order to provide natural ventilation. The applicant has agreement with the adjoining owner to the north to incorporate the podium into a boundary fence. There are to be no openings in this boundary wall. The proposed podium terraces are also considered to be consistent with the stated performance criteria for setbacks, as they will not affect the provision of sunlight to habitable areas or ground level open space."*

The podium height requirements are detailed within the setback section of Development Control Plan No. 6 and are specified to ensure that buildings are sited in a manner to reduce loss of amenity to adjacent dwellings. The encroachment of a podium into the side setback at a vertical height of 1.2m can have the effect of increasing the overall height of the building, and creating a potential privacy concern between residences as a raised podium level can potentially overlook the adjoining properties.

In this instance the raised podium level to an R.L. of 8.4m creates an overall building height of 10.436m. For a three storey residential building this is not considered to be excessive and fits within the maximum 12m height as specified by Council's Building envelope criteria.

Additionally the raised podium level can create concerns for privacy for adjoining residences. This will potentially impact on the property to the north, as the podium will be right to the boundary at a maximum height of 1.2m. However, the applicant proposes that this form part of the common property boundary fence. In addition the following conditions of consent are recommended to mitigate potential privacy concerns:

- 1. The northern elevation is to be extensively landscaped (high dense plantings) for the length of the exposed podium to create a privacy screen between the subject site and the existing property to the north.*
- 2. The side boundary fence to the northern elevation is to be a minimum of 1.8m when measured from existing ground level within the northern adjoining property.*

From a construction point of view the encroachments for the podium should be addressed having regard to Council's Building Excavation Dewatering Policy. Whilst dewatering is not proposed excavation is proposed within the nominated 3m setback. Therefore following discussions with Council's Senior Building Surveyor it is recommended in this instance to recommend a deferred commencement condition ensuring compliance with the nominated Policy as follows:

*Deferred Commencement:*

- 1. The applicant shall submit to Council for approval an appraisal carried out by a Geotechnical Consultant of the effect of the proposed excavation including any precautions considered necessary to protect such properties from damage on accordance with Tweed Shire Council's Building Excavation Dewatering Policy.*

*2. The applicant shall submit to Council documentation demonstrating General Public Liability Insurance to the value of \$5,000,000 which includes loss of support to neighbouring properties which is attributed to excavation vibration associated with the project in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.*

In addition to these deferred commencement conditions it is further recommended that the following condition be imposed in Part B of the consent:

*All works (including support structures for excavation such as sheet piling) are to occur within the confines of the subject property boundaries.*

The proposed application was advertised and notified to adjoining owners for a period of two weeks. During this period no submissions of objection were received. Therefore, subject to the podium forming part of the boundary fence and compliance with the above recommended conditions of consent no further objection is raised to this variation.

#### Building Envelope

The applicant has provided that:

*"The proposed building incorporates some encroachment into the building envelope. These areas comprise parts of wall and roof at level 3 in the living room, bathrooms and bedrooms. Notwithstanding the non compliance, it is submitted that the areas of encroachment (by specific mention of the DCP this does not include pergolas, unroofed terraces or landings) will not result in adverse shadow or privacy impacts on adjoining properties."*

The encroachment varies on a horizontal plane. Therefore it is easiest to split the assessment by elevation as provided by the applicant.

The northern elevation shows a minor encroachment at level 3 for the open balconies (which is permissible) and bedroom 3. In this instance it should be noted that bedroom 3 for units 5 and 6 (at level 3) are located 5.5m back from Kingscliff Lane yet still create encroachments into the building envelope. The encroachment is for a maximum of 1.8m and is considered minor.

The southern elevation shows an encroachment to the open balcony only, which is permissible in accordance with DCP No. 6.

The eastern elevation shows some more significant encroachments into the third level living rooms. However it should be noted that this section of the main building (not balconies) is setback 9 metres from Marine Parade and a minimum of 4m from the side setbacks. The building is not being proposed with minimum allowable setbacks yet it still does not comply with the building envelope.

The western elevation shows some more significant encroachments into the third level bedrooms and bathrooms whilst the building is setback 5.5 metres from Kingscliff Lane in this section.

These encroachments occur despite compliance with Council's setbacks, height and landscaping requirements. Furthermore they occur despite compliance with Council's Development Control Plan No. 43 that specifically nominates that this area should be developed with into Type Three buildings comprising basement and three storeys of residential above with no required setback for the upper most floor.

The proposed building bulk is distributed and sited in accord with Council's setback criteria. Furthermore, the open balconies will assist to diffuse views through the site from adjacent development.

Given the compliance with the required setbacks and the acceptability of the height of the building, the non-compliance in this instance is considered to create a negligible impact on the streetscape and any adjoining premises. Having regard to the shape of the building and articulation of external walls the overall height bulk and scale of the building appears reduced. It is considered that the encroachments into the building envelope are of no major planning consequence.

### Summary

In all other aspects the proposed multi dwelling housing development is considered to have adequately considered and addressed the objectives and acceptable solutions contained within DCP 6.

### Development Control Plan No.39 – Energy Efficient Housing

The applicant has submitted a NatHERS certificate for the proposed development that outlines compliance with the requirements DCP 39 as follows: -

<b>Standard</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
Unit Energy rating	3.5 stars minimum	3.5-5 stars	<b>YES</b>

The proposed development complies with the requirements of DCP39.

### Development Control Plan No.43 - Kingscliff

The subject site is in the Kingscliff North Precinct and is identified as having Type 3 Buildings. The proposed development complies with the building type this being three storey developments with basement parking. The building is of a high standard with interesting and attractive detail and articulation

The objectives of the Kingscliff North precinct are to:

- Develop the precinct primarily as a residential area, with pedestrian access to neighbourhood shops;
- Improve pedestrian and visual linkages between residential areas and the beach;
- Facilitate the development of Marine Parade as a medium density housing area with a distinctive building aesthetic which reflects the coastal location and improves the streetscape quality;
- Facilitate the gradual development of Kingscliff and Pearl Streets for medium density housing which improves streetscape quality and respects the dominantly low key residential character of these streets;
- Retain the low key residential character of land west of Kingscliff Street.

The proposed development is not in conflict with the objectives of the precinct. It provides medium density housing that is considered aesthetically pleasing, reflective of the coastal location and improves the streetscape.

There are no other specific requirements for the site in the DCP. It is considered that the proposed development complies with the provisions of DCP43.

### Development Control Plan No. 47 – Cut & Fill

The plan limits the depth of cut and fill to 1m unless it can be demonstrated that the earthworks are compatible with the natural landform and will not adversely affect adjoining properties while achieving the objectives of the plan.

The proposed development involves excavation for the basement and will extend beyond 1 metre, however this is considered consistent with recently approved developments. The applicant has substantiated the request with an erosion and sediment control plan, and a stormwater management plan that have been assessed and considered appropriate. Council's Environmental Health Officer, Council's Infrastructure Engineers and Council's Building Surveyor have all reviewed these plans, with no objections raised subject to the recommended conditions of consent.

In all other regards the applicant provides that appropriate measures will be in place to ensure that the proposal is consistent with the objectives of the plan.



### DCP No 51 – Tweed Coast Strategy

The Development Control Plan relates to the northern end of the Tweed Coast, which includes the:

- The town of Kingscliff;
- West Kingscliff;
- Cudgen Village;
- The Casuarina locality (including the Casuarina Beach development); and
- The future development area of Kings Forest.

The Plan sets objectives for future development concentrating on public services and design principals. This application does not contradict the objectives of this plan and actually adds to the streetscape through design.

### Draft DCP No. 48 – Tweed Coast Building Heights

The Draft was originally exhibited in November 2002 and specified that a three storey residential development shall have a maximum height of 9 metres.

Since this time, extensive work has been done on the document to require the draft to be re-exhibited between 17 March 2004 and 14 April 2004. Therefore this application does require consideration against the re-exhibited version.

The Aim of the DCP is to protect the established and future character of the Tweed Coast by:

- Providing guidelines on building height;
- Providing guidelines on building setbacks; and
- Providing guidelines for the design and use of rooftops.

The objectives of this DCP are to:

Protect the Region's public amenity by enhancing its diverse and unique built environment through qualitative urban design; and  
Provide the community with a pre-determined maximum height in relation to a building.

The requirements for the proposed development in relation to Draft DCP 48 are assessed in the following table:

<b>Standard</b>	<b>Requirement</b>	<b>Variation/complies</b>
Development Context	Submit a detailed site analysis indicating opportunities and constraints	The application was accompanied by detailed analysis, which has enabled a thorough assessment of the application.

Standard	Requirement	Variation/complies
		<u>Complies</u>
Building Height	3 Storey Residential Development maximum height 9 metres with a further 2 metres allowed for roof structures.	The plans demonstrate the three-storey component of the building measures 10.436m. This is 9.4m to the top plate and additional height in roof detail.  Whilst not numerically complying this minor departure is not considered to compromise the integrity of the building or the amenity of any adjoining premises.  <u>Satisfactory</u>
Building Setbacks	Minimum Front Setback 6m	<u>Complies</u>
	Secondary Frontage minimum 3m	<u>Complies</u>
	Minimum Side & Rear Setbacks 3m	Main Walls Comply Balcony encroachments to 1500mm  <u>Satisfactory</u>
Building Envelope	Project a 3.5m vertical line up from the property boundary and then at 45 degrees to the maximum height of the building.	Encroachments exist – see assessment under DCP No. 6  <u>Satisfactory</u>
Roof Design	Avoid unbroken roof or eaves (maximum 10 metres), use non reflective materials, screen ancillary structures and encourage solar efficiency.	The proposed roof design is considered modern and attractive appropriate conditions will be imposed to ensure the materials used will be non reflective.  <u>Satisfactory</u>

The proposed development generally complies with the objectives of the draft plan whilst having some minor numerical non-compliance. The development is considered to be consistent with surrounding development and reasonable given the design and location of the building.

**(a) (iv) Any Matters Prescribed by the Regulations**

The subject land is affected by the coastal policy. The proposed development is not considered to be in conflict with the policies and strategies contained in the coastal policy.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Compatibility with Adjoining Land Uses

The subject land is located on the prominent Marine Parade, Kingscliff. The surrounding development varies between single storey cottages to three storey residential flat buildings.

The land uses along Marine Parade and Kingscliff Street are changing to accommodate predominantly units and it is considered that this style of the development is consistent with the changing nature of Kingscliff.

Bulk Scale & Design

The original application presented to the Development Assessment Panel demonstrated an excessive and extravagant development with many more encroachments into the building envelope. On review of the proposal the applicant reduced the building envelope encroachments, increased setbacks and improved the development to point where it is recommended for approval subject to conditions of consent. The current design is justifiable on the basis of the design principles and the fact that the bulk and scale of the development will be consistent with existing development along Marine Parade.

View Loss

The proposed infill development will reduce the potential for adjoining properties to maintain any open space/ocean views, however the views currently enjoyed are due to the double storey nature of the existing buildings. Whilst the proposed development will block this view for those behind and potentially to some extent the properties to the sides, the proposed development has been designed in accordance with the criteria detailed within Councils' controls. Specifically the required setbacks, which allow some view corridors to be retained.

### Privacy

The proposed development incorporates many balconies at every level of the building in addition to two roof terraces. Whilst these deck areas wrap around the sides of the building it should be acknowledged that these components of the deck only have a depth of between 1.1 – 2.5 m and then join with the main east facing elements of the deck which measure 6 x 3 metres. These larger areas of the deck are likely to form the main useable areas due its size with the remaining areas just adding to the availability of open space.

No objections were received in relation to this development.

The proposed development is considered satisfactory on privacy grounds having regard to the medium density nature of the area itself.

### Traffic/Access

The application proposes to service the basement via Kingscliff Lane. The basement has been designed with one ingress and egress point, which is considered appropriate for the site subject to the recommend conditions of consent.

### Flora & Fauna

The subject site is absent of any significant vegetation.

### Social & Economic

The proposed building will replace the existing structures with a contemporary design of high architectural merit. This type of development does not trigger the need for a social impact assessment to be prepared.

## **(c) Suitability of the site for the development**

The rear lane access to the proposed development is desirable and provides a more suitable local road environment to Marine Parade through the reduction in driveway crossings to the footpath, making the environment more pedestrian safe. Furthermore, the design of the building utilises the existing site attributes effectively and appropriately.

## **(d) Any submissions made in accordance with the Act or Regulations**

The development application was advertised and notified to surrounding properties for a period of two weeks closing on 11 February 2004. During this period no written submissions were received.

**(e) Public interest**

The proposal it is not considered to be in conflict with the general public interest in the locality. The proposed development adequately reflects the provisions of the development control plan and intended development for the locality.

**OPTIONS:**

1. Approve the application in accordance with the recommended conditions.
2. Refuse the application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicant has a right of appeal to the Land and Environment Court.

**POLICY IMPLICATIONS:**

Should the application be supported with the numerical non-compliances the integrity of Development Control Plan No. 6 may be compromised.

**CONCLUSION:**

The subject land is generally considered to be suitable for the proposed development. The local road network surrounding the site is suitable for such a development especially when access is diverted to rear lane and when adequate on site car parking is provided.

The variations under DCP 6 being sought by the proposal, these being floor space ratio, podium setbacks, and the building envelope are not considered to be unsustainable or create an over development of the site.

Having had regard for the proposed development and controls provided for the site it is considered that conditional consent is warranted.

**UNDER SEPARATE COVER:**

1. Development Plans x 9
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**4 [DS] Development Application DA04/0168 for a Surf Lifesaving Facility and Public Amenities Building at Lot 194 DP 755701, Lot 301 DP 755701 & Lot 312 DP 755701 Tweed Coast Road, Kingscliff**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0168 Pt1**

**SUMMARY OF REPORT:**

The master plan for the SALT development contains a site to be developed for a surf lifesaving facility. The lot is identified as proposed lot 173 and is located between the two resort sites and is adjacent the central park. The proposed building consists of an equipment storage area, office, locker room and first aid room and separate public amenities comprising separate male, female and disabled facilities.

The land and facility will be transferred to Council and the facility will be resourced by the resort operators for ten years after which Council will be responsible for the resourcing of the facility.

**RECOMMENDATION:**

That : -

1. Council uses the assumed Concurrence of the Director General of the Department of Infrastructure Planning and Natural Resources and supports the proposed development and its overshadowing of the Coastal Reserve.
2. Development Application DA04/0168 for a surf lifesaving facility and public amenities building at Lot 194 DP 755701, Lot 301 DP 755701 & Lot 312 DP 755701, Tweed Coast Road, Kingscliff be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos A-DA-001 to A-DA-009 prepared by ML Design McKerrell Lynch and dated 20 January 2004, except where varied by these conditions.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.

[GEN0010]

[GEN0030]

3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0120]
4. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
5. The surf lifesaving facility is to be operational prior to the opening of the Outrigger Resort.  
[GEN0150]
6. The Strategic Beach Management Plan prepared by Surf Lifesaving NSW dated May 2003 prepared for the facility is to be carried out and utilised for the entire lease period of the facility.
7. Conditions 15, 16 and 17 of DA02/1422 are to be complied with.
8. Suitable arrangements are to be made between Council and the resort operators for the lease of the facility prior to opening of the Outrigger Resort.  
[GENNS01]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

9. A detailed plan of landscaping is to be submitted and approved by Council's Director, Development Services prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.  
[PCC0010]



10. **Section 94 Contributions**

- (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- a. Tweed Road Contribution Plan: \$896.00

S94 Plan No. 4 (Version 4.0)

**(Sector 7a)**

- b. Extensions to Council Administration Offices  
& Technical Support Facilities \$69.00

S94 Plan No. 18

[PCC0050/PSC0005]

11. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water: \$20,550.00

Sewer: \$16,450.00

South Kingscliff Water Levy: \$1,055.00

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

12. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC0240]

13. \*
- \* Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
  - \* All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
  - \* The infiltration rate for sizing infiltration devices shall be 3m per day:
    - As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
  - \* Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by **visible surface flow**, not piped.
  - \* Runoff is to be pre-treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
  - \* If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
  - \* All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.

- \* All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- \* All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC0360]

14. Prior to issue of the construction certificate Council approval is to be obtained for all fixtures and fittings.

[PCCNS01]

**PRIOR TO COMMENCEMENT OF WORK**

15. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0010]

16. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0030]

17. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:

- (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
- (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
- (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
  - (A) the method of protection; and
  - (B) the date of installation of the system; and
  - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
  - (D) the need to maintain and inspect the system on a regular basis.

**Note:**

Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

[PCW0050]

18. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
  - (c) if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

19. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0070]

20. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

[PCW0090]

21. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW0210]

22. Prior to the commencement of works on the site all required erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

In addition to these measures an appropriate sign is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0280]

23. Prior to commencement of construction of the building Council shall be provided with a validation report from a suitably qualified person which confirms surface radiation levels on the site, and that these levels do not exceed NSW Health Action limit of 0.7uGy/hr.

[PCWNS01]

24. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

[PCW0190]

#### **DURING CONSTRUCTION**

25. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
- [DUR0010]
26. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
- [DUR0040]
27. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
- [DUR0080]
28. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.
- [DUR0170]
29. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.
- [DUR0260]
30. If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.
- [DUR0280]
31. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
- [DUR0850]

32. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution. [DUR0870]
33. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning. [DUR0890]
34. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays. [DUR0900]
35. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
  - B. Long term period - the duration.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence. [DUR0910]
36. The burning of builders waste on site by open fire is prohibited. [DUR0940]
37. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building. [DUR0960]
38. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development. [DUR0980]
39. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
  - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c. external drainage prior to backfilling.
  - d. completion of work and prior to occupation of the building. [DUR1020]
40. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.  
B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR1030]
-

41. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR1110]
42. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

- [DUR1160]
43. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
  - ii. Required toilet facilities have been provided on the site.
  - iii. A sign has been erected on the site identifying:
    - Lot number
    - Builder
    - Phone number of builder or person responsible for site.
  - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
  - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.
- [DUR1200]
44. All solid wastes shall be collected, stored and disposed of to the satisfaction of the Director of Environment and Community Services. [DURNS01]
45. Foredune vegetation shall not be removed, damaged or disturbed to the satisfaction of the Director of Environment and Community Services. [DURNS02]
46. Acid sulfate soils shall not be exposed or disturbed. [DURNS05]
47. The site shall not be dewatered. [DURNS04]

48. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications and conditions of Consent.

[POC0020]

49. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0030]

**USE**

50. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.

[USE0160]

51. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.

[USE0170]



**REPORT:**

**Applicant:** South Kingscliff Developments Pty Ltd  
**Owner:** South Kingscliff Developments Pty Ltd  
**Location:** Lot 194 DP 755701, Lot 301 DP 755701, Lot 312 DP 755701 Tweed Coast Road, Kingscliff  
**Zoning:** 2(f) Tourism and 7(f) Environmental Protection (Coastal Lands)  
**Cost:** \$1,500,000

**BACKGROUND:**

The SALT master plan and subdivision approval (DA02/1422) identify proposed lot 173 as a site to be used for a surf lifesaving facility. The development consent for the subdivision contains the following conditions relating to the facility-

*"14. Arrangements shall be made for surf lifesaving facilities prior to opening of the Outrigger Resort to the satisfaction of Council.*

*The applicant shall provide permanent surf lifesaving facilities for patrons of the resorts, future residents and visitors. The applicant is required to construct and equip a surf lifesaving facility in the location nominated on the master plan and in accordance with the requirements of a future Strategic Planning report for surf lifesaving to be completed by Surf Life Saving New South Wales (at the cost of the applicant).*

*A separate development application and construction certificate for the surf lifesaving building is to be submitted and approved prior to the construction of the permanent facility."*

*"15. The ongoing resourcing of the surf lifesaving facilities for a period of 10 years shall be by the resort operators and the applicant is to ensure that that each tourist resort development on the project will be required to annually contribute to the annual running costs of the surf lifesaving facility on the SALT development with the contributions being based on a share per tourist resort room of the costs of maintaining the facility with professional life guards contracted through Surf Lifesaving New South Wales."*

*"16. The applicant shall indemnify Council in regard to the cost of provision of services by Surf Lifesaving New South Wales for patrolling of Council's beach which borders the Salt Development for the 10 year period."*

*"17. The land and building containing the surf lifesaving facility is to be transferred to Council upon completion. Council will lease the facility to the body corporate of the resort/s for \$1 per year for 10 years."*

Surf Life Saving New South Wales have given written support for the proposal and have indicated it meets their requirements and is accordance with the Strategic Planning report.

The proponents have advised the following regarding the arrangements with Surf Life Saving NSW-

*“We have worked closely with Surf Life Saving NSW regarding the costings of the manning of the facility which has culminated in a final submission being received from them in January this year. Since that time we have advised Mr Andrew May the Operations Manager of Surf Life Saving NSW that he is to prepare documents for review and execution that will secure the further manning and operation of this facility with them.*

*The essence of the arrangements with Surf Life Saving NSW will be that as a duly formed association they will be contracted with both the Outrigger and Peppers Resorts for a ten year period to secure the annual funding necessary to pay for the operation of this facility.”*

The facility consists of a single story building with a footpath between the lifesaving facility and the public toilets. The total floor area of the facility is 159.7m<sup>2</sup>.

**SITE DIAGRAM:**



**CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**

**(a) (i) The provisions of any environmental planning instrument**

Tweed Local Environmental Plan 2000

The subject land is zoned 2(f) Tourism and 7(f) Environmental Protection (Coastal Lands). The only part of the facility that will be located in the 7(f) zone will be a pathway and a hardstand area for the lifesaving facility. The SALT development includes realigning the boundary with lot 500 so that the 7(f) land is within lot 500 (proposed lot 86).

Surf lifesaving facilities are defined as emergency service facilities under the provisions of the Tweed LEP 2000 and are permitted with consent in the 2(f) and 7(f) zones.

The proposal is not contrary to the objectives of each of the zones.

Clause 27 of the Tweed LEP requires the concurrence of the Director of the Department of Infrastructure, Planning and Natural Resources for development within the 7(f) zone. The concurrence has been received.

The matters for consideration contained in clause 27 relating to development of land zoned 7(f) have been satisfied.

North Coast Regional Environmental Plan 1988

The matters contained in the North Coast REP have been addressed in the application. It is considered that the matters relating to the NSW Coastal Policy, Coastline Management Manual, North Coast Design Guidelines and foreshore shadowing have been adequately addressed and do not prevent approval of the application.

A SEPP-1 has been submitted with the application regarding the overshadowing standard contained in the REP. The REP states that overshadowing of foreshore areas is not to occur prior to 7.00 pm mid-summer (daylight saving time). The proposed facility will cast a relatively small area of shadow (5m<sup>2</sup> approx.) onto the 7(f) land prior to 7.00pm on 22 December.

The proponent justifies the variation with the following reasons-

- *Dedication of the 7(f) zoned land between the building and the eastern property boundary, (up to approximately 20 m wide) as per Consent 02/1422 was a means of mitigating overshadowing impacts and visual impacts;*

- *By the nature of the proposed facility, it is essential that the building be located as close as possible to the beach such that convenient access is provided for personnel, equipment and emergency services;*
- *The design of the building incorporating a single storey minimises the amount of overshadowing of the foreshore area;*
- *The proposed building will not overshadow any part of the foreshore reserve (beyond the 7(f) zone) prior to 4:00 pm on June 22 (mid-winter).*
- *The area of the foreshore reserve (beyond the 7(f) zone) to be overshadowed by the proposed building prior to 7:00 pm (daylight savings time) on December 22 (mid-summer) is quantified as only 5 m<sup>2</sup>. This area is considered to be numerically insignificant given that the total foreshore area fronting the subject property is in the order of 20 ha. These areas are illustrated in the shadow diagrams included within the architectural plans attached to the Statement of Environmental Effects.*
- *The shadows do not extend to the beach area and therefore will not impact on sunbathers and surfers.*

It is considered that strict compliance with the overshadowing standard in this instance is unreasonable and unnecessary and the variation is supported.

#### State Environmental Planning Policies

SEPP 71- Coastal Protection applies to the proposal. The matters contained in clause 8 of the Policy have been adequately addressed in the application.

**(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

None applicable.

**(a) (iii) Development Control Plans (DCP's)**

DCP -2 Site Access and Parking applies however facility does not include any additional car parking spaces. The site is located adjacent proposed public car parking areas. Vehicle trips will only be generated by persons operating the life saving facility for patrol purposes and the facility does not have any commercial components that would generate the need for car parking.

**(a) (iv) Any Matters Prescribed by the Regulations**

All matters acceptable.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

It is considered that the impacts of the proposal are not significant. The facility will be located in a prominent location however the building is relatively small and is unlikely to have an unacceptable visual impact. The application has identified the following measures to mitigate any adverse impacts.

- Provision of a permanent life saving presence in accordance with the requirements of Surf Lifesaving New South Wales and Council's conditions of the Salt development consent.
- Design of the surf lifesaving facility to reflect contemporary standards and guidelines including the Coastal Design Guidelines for NSW, 2003 (Coastal Council of NSW).
- Design of the surf lifesaving facility relates to the character of other buildings to be constructed in the immediate locality.
- Protection of significant foreshore landscape features by designing the building to a maximum of one storey, and in accordance with the design guidelines for the Salt Master Plan.
- Provision of appropriate landscaping to soften visual impacts, reduce run-off and improve the aesthetics of the public domain.
- Adoption of a site layout which facilitates pedestrian and bicycle access to key facilities improving permeability, connectivity and reducing motor vehicle dependence.
- Incorporation of key crime prevention elements into the design in relation to landscaping, lighting and surveillance of the public domain.
- Provision of all normal urban infrastructure on site.
- Implementation of standard construction phase impact amelioration measures including limiting hours of work; dust suppression measures and erosion and sedimentation control.

### Radiation

Reference is made to DA02/1422 for the major SALT development. Under application extensive site investigation was completed to identify radiation on the subject land. Reference is made to Cardno MBK Plan 7083/1-5 (SK No. 18 Rev A, March 2003), which detailed surface radiation levels across the SALT development, including the surf life saving facility site. Levels on the facility site were consistent with background levels across the site of 0.1uGy/hr.

The site will be subject to significant earthworks. Remediation of existing radiation and post earthwork verification of radiation levels for the entire development site is required under DA02/1422. Whilst existing surface levels were reported to be well within the NSW Health Action criteria, a condition will be applied requiring post earthwork validation reporting, prior to commencement of construction of the facilities.

Acid Sulfate Soil

Previous ASS testing on the site found ASS not to be present in the area.

Bushfire

The site is identified as bushfire prone however it will be adjacent the foreshore park which will provide a suitable bushfire protection zone.

**(c) Suitability of the site for the development**

The site was identified for a surf lifesaving facility at the master planning stage of the SALT development. The site is considered suitable for the proposal.

**(d) Any submissions made in accordance with the Act or Regulations**

The application was advertised and no submissions were received.

The application was referred to Surf Life Saving NSW and a submission was received from this organisation supporting the application.

**(e) Public interest**

It is considered to be in the public interest to have a lifesaving facility in close proximity to a beach that will be used by the public.

**OPTIONS:**

1. Approve the application as per the recommendation.
2. Approve the application with alterations to the recommendation.
3. Refuse the application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The land and buildings are required to be transferred to Council upon completion and then leased to the resort operators. A condition is proposed regarding arrangements to be made for the leasing of the facility and compliance with the Strategic Beach Management Plan for the facility prepared by Surf Life Saving NSW.

Council will become responsible for the resourcing of the facility after 10 years.

**POLICY IMPLICATIONS:**

Consultants on behalf of Council are preparing a Surf Lifesaving Strategy report regarding surf lifesaving facilities for the Tweed. This proposal will be included in the report.

**CONCLUSION:**

It is considered that the proposal is acceptable and the facility will form an important community asset for the area.

**UNDER SEPARATE COVER:**

Nil.

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**5 [DS] Development Application DA04/0064 for a Mixed Commercial/Retail Tourist Accommodation at Lot 4 Section 4 DP 172565, Lot 23 DP 1064172, No. 30-32 Marine Parade, Kingscliff**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0064 Pt1**

**SUMMARY OF REPORT:**

A development application has been lodged with the Department of Planning and Natural Resources for a mixed commercial/retail tourist accommodation building to adjoin the recently approved 'Nor Nor East' development at 32-34 Marine Parade, Kingscliff. The proposed 3 and part four storey (33m<sup>2</sup>) development comprises 286m<sup>2</sup> of commercial/retail floor area, guest facilities including a gym and cinema, 4 x 3 bedroom units and 8 on-site car parking spaces.

The proposed building will be erected on Lot 4 (30 Marine Parade) however vehicular access from Hungerford Lane will be obtained through the adjoining lots at 32-34 Marine Parade (recently approved 'Nor Nor East' DA02/1136). The proposed access isle will result in the removal of two car parking spaces from 32-34 Marine (DA02/1136) and relocated to No. 30 Marine (Lot 4) and a right of carriageway will be created over each lot to provide legal access rights and to relocate car parking spaces.

Two SEPP 1 Objections accompany the application. One relates to the height of the building and the other relates to the extent of overshadowing of the foreshore reserve.

Pursuant to State Environmental Planning Policy No. 71 Coastal Protection, the Minister is the consent authority.

The application has been referred to Council for comment. The following is a discussion of the relevant issues as identified by Council staff and is reported to Council with a recommendation to endorse the proposal subject to the recommended conditions of consent.

**RECOMMENDATION:**

That a copy of this report and draft conditions be sent to the Director General of the Department of Infrastructure, Planning and Natural Resources for consideration as part of their report to the Minister.

**REPORT:**

**Applicant:** Resort Corp Pty Ltd  
**Owner:** Mr BM Murray, Mrs JT Murray & Resort Corp Pty Ltd  
**Location:** Lot 4 Section 4 DP 172565, Lot 3 DP 964996, Lot 2 DP 979921 No. 30-34 Marine Parade, Kingscliff  
**Zoning:** 3(b) General Business  
**Cost:** \$1,900,000.00

**BACKGROUND:**

The subject site has until recently been occupied by a two storey single dwelling house. The house was demolished in accordance with the Council issued DA 03/1471, which approved the demolition of all structures on the subject site. Subsequently the subject site is now vacant and awaiting development approval to enable construction to begin.

The subject development application seeks consent for a mixed commercial/retail and tourist development. This application relies on the recently approved 'Nor Nor East Development' (DA 02/1136) to obtain vehicular access to Hungerford Lane via the car park of 'Nor Nor East'. The developer in respect to that development is the same owner/developer as 30 Marine Parade.

Council is not the consent authority for this DA, however, Council's comments on the application have been sought. The Minister for Infrastructure, Planning and Natural Resources is the consent authority in accordance with SEPP71 - Coastal Protection.

**SITE DIAGRAM:**



## **CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**

### **Development Assessment Unit Comments**

#### **Zoning**

The subject site is zoned 3(b) General Business under Tweed LEP 2000. Commercial premises, retail and tourist accommodation are all permissible development types under the provisions of this plan provided that the tourist accommodation is not located at street level (other than the entry and the like). The proposed development is considered to satisfy this provisions as it involves the erection of commercial/retail development on the ground floor and 8 tourist accommodation units above.

#### **Height Of Building**

Clause 16 of Tweed LEP 2000 restricts the height of buildings to a maximum height of three-storeys. The applicant has provided a cross section showing natural ground level as taken from a Council sewer map dating more than 30 years ago. As the ground level on the site has been significantly altered from the original natural ground level it is considered reasonable to utilise the subject plan to determine natural ground level at that time. Given the adopted natural ground level and the current definition of a storey the proposed development is four storeys (in the centre of the building) for a length of 2.8 metres, which is inconsistent with the development standard limiting buildings to three storeys in this locality. Subsequently, the applicant has lodged a SEPP 1 Objection to this standard.

The extent of the fourth storey occurs within the centre of the building and accommodates the lobby and lift area. The plans demonstrate that it would be setback 17 metres from the front boundary to Marine Parade and 20 metres from Hungerford Lane. The extent of the fourth storey would not be visible for pedestrians standing on Marine Parade, however it will be visible from the foreshore across the road.

It is recommended the consent authority (The Minister) should be advised that Council generally does not support buildings that exceed 3 storeys and that he should carefully consider the height, bulk and scale of the development when determining this development application including the impact that the proposal will have on the amenity of those residence (particularly loss of view) that are located behind the site along Hungerford lane.

However, the following comments should also be noted;

- The proposed development, whilst being four storeys in part, would be considered to be consistent with that approved at 32-34 Marine Parade.
- Even if the fourth storey were to be removed this would not improve the elevation for residences behind in Hungerford Lane, as there would be no

- reduction in view loss given that the area of non-compliance occurs in the centre of the site;
- Draft Tweed Local Environmental Plan No. 46 was exhibited between 16 April 2003 and 14 May 2003 and detailed an amendment to the definition of a storey to reflect the finished ground level rather than the natural ground level in addition to incorporating that any space in excess of 4.5 metres should be categorised as two storeys. This amendment has since been re-visited and is proposed to be adopted in accordance with Council's resolution from the meeting of the 3/03/2004. This amendment would have the effect of increasing the area of numerical non-compliance in regard to the overall height of the building and should be considered by the consent authority.
  - Draft DCP No. 48 – Tweed Coast Building Heights was originally exhibited in November 2002 and then re-exhibited between 17 March 2004 and 14 April 2004. The Draft specifies that a three storey mixed commercial/residential development shall have a maximum height of 10 metres. The current application does not entirely comply with this criterion and should be considered by the consent authority.

### Car Parking and Development Control Plan No. 2 Site Access and Parking Code

The following table details the requirements of the on site car parking provisions contained in DCP 2, and the proposed provision for onsite parking. It should be noted that the applicant nominated the ground floor tenancies as retail/commercial space. The retail rate has been adopted for the purpose of calculating car parking otherwise the use of these premises would be restricted to office space only. As they are at street level this is not realistic. It is more likely considering existing land uses along Marine Parade that some of these tenancies may want to be used for restaurants. This would not be possible due to increased parking requirements unless a substantial contribution was paid for the shortfall.

Use	GFA	DCP Classification	Staff Requirement	Customer Requirement
Retail	286m <sup>2</sup>	Item C19 Retail	0.5 spaces per 100m <sup>2</sup> = <b>1.43</b>	3.5 spaces per 100m <sup>2</sup> = <b>10.01</b>
Tourist Accommodation	NA	Item B6 Accommodation	0.5 spaces per staff = <b>1</b> (assume 2 staff)	1 per unit = <b>4</b>
<b>TOTAL STAFF PARKING REQUIRED = 2.43 spaces</b>				
<b>TOTAL CUSTOMER PARKING REQUIRED = 14.01 spaces</b>				
<b>GRAND TOTAL OF ONSITE PARKING REQUIRED</b> = 16.44 + 2 (for the reduced parking at 32-34 Marine Parade) = 18.44				

The proposed plans indicate that the car park comprises 8 spaces.

This satisfies the requirements for the residential component and the two spaces required as part of reallocation as a result of the access through 32-43 Marine Parade.

With two residue spaces one which should be allocated to staff in association with the tourist accommodation and one which should be allocated to the staff in association with the commercial tenancy. This leaves an outstanding balance of 10.44 car spaces.

The applicant has accompanied their application with a traffic report prepared by Garry Shields and Associates. The traffic report concludes that the number of spaces provided on site complies with the spaces required for the residential component and the two spaces to be relocated from the adjoining property as a result of the proposed access. It further states that the spaces for shop purposes cannot reasonably be provided on site and that those spaces should be provided by way of a Section 94 Contribution pursuant to S94 Plan No. 23.

The applicant has also drawn upon Clause 4.8 of DCP No. 2 which allows a reduction of 70% if it is determined that there is adequate parking onsite and in public car parks to prevent a nuisance to adjacent properties. This is not deemed to be applicable to this development given the shortfall of parking in the Kingscliff area and the amount of objections that this development attracted which concentrated on parking problems. This clause does however go on to specify that where the minimum number of customer parking spaces cannot be provided on site, Council may consider a contribution in lieu of unsupplied spaces. Section 94 Contribution Plan No. 23 specifies that unsupplied car parking spaces in Kingscliff be charged at \$11,500 per space.

Consequently if the Department determines to approve the application it is strongly recommend that a condition of consent be imposed requiring the payment of \$120,060. This figure is based on 10.44 outstanding spaces x \$11500

It is considered prudent that this condition be imposed. The proposed development will generate a much higher intensity than the existing development and it is considered that given the shortfall of parking in Kingscliff developers should be held to contributing to the consequent demand increase as a result of their developments.

The application proposes to service the ground floor tenancies from existing loading bays along Marine Parade for all service deliveries. The applicant has provided that the neighbouring buildings are serviced this way, as there is no other practical method available. This argument is supported, as it would be inappropriate and impractical to provide access from the rear of Hungerford Lane to facilitate the service of the commercial tenancies, as this would generate excessive traffic demands on Hungerford Lane, which is a narrow one-way street. In considering Council policy preventing driveway access for either commercial or for residential use off Marine Parade, it is appropriate to use an existing loading bay adjacent to this site which is in proximity to facilitate all servicing requirements of the commercial tenancies, while only using Hungerford Lane for the tourist accommodation.

## **Design**

It is considered that the proposed development represents a modern beach side development with an appropriate human scale. The staggering of the development represents the topography of the land and ensures that when viewed from the foreshore

the development has had regard to the restraints of the site. The ground level setback to Hungerford Lane allows an element of landscaping to ensure that Hungerford Lane is not seen as service lane, but rather a small street. The proposed building will be quite large given its boundary to boundary construction and overall height however the bulk and scale of the development will be consistent with existing and approved development along Marine Parade.

### **View Loss**

Properties behind the subject site will lose a substantial amount of their current ocean views, however the views currently enjoyed are panoramic. Many of the properties enjoy views looking north along Kingscliff Beach and looking south to the creek and beyond to Kings Beach. And whilst the development will block the immediate foreshore (to the horizon) in front of them limited views to the north will be retained. Whilst some view loss will be experienced this development does allow for some limited view sharing opportunities.

### **Privacy**

The proposed development will not directly overlook any other adjoining property. The rear windows and terraces to Hungerford Lane are bedroom windows (non trafficable areas). However it is recommended to incorporate some form of external louvres, which will provide for an element of privacy between residential properties along Hungerford Lane and the subject site.

All other balconies are oriented to the east and overlook Marine Parade itself and the adjoining beach and foreshore. The proposed development is considered satisfactory on privacy grounds.

### **Flora & Fauna**

The subject site is absent of any significant vegetation.

### **Social & Economic**

As detailed above a Socio-Economic Impact Assessment is not required, as it has been determined that the application will have limited impact, as the site is currently vacant after accommodating a 2 storey residential building. The building was nearing its economic life and had little to no architectural merit. The proposed building will be contemporary in design with a high level of architectural merit. This type of development does not trigger the need for a social impact assessment to be prepared.

### **Bushfire Hazard**

The land is not identified on Council's Bushfire Maps.

### **Coastal Erosion Hazard**

The recently completed WBM Oceanics Tweed Coastline Hazard Definition Study indicates the site is landward of the 100 year erosion line. It is considered the site is unlikely to be affected by Coastal Erosion. In conjunction with dune rehabilitation works this risk will be further minimised.

### **Overshadowing of the Foreshore**

Shadow diagrams submitted indicate the building will cast a shadow onto the vegetated foreshore reserve, but not the beach proper at the relevant times in mid winter and mid summer. Under Clause 32B of the North Coast Regional Environmental Plan, Developments are not to overshadowing beaches or waterfront open space at 3 pm Midwinter and 6.30 pm (DST) Midsummer. The NSW Coastal Policy also includes similar provisions.

The applicant has submitted a SEPP No. 1 Objection to vary this development standard. As the extent of overshadowing does not extend onto the beach proper, no objection is raised to the proposal. However prior to issuing approval the consent authority (the Minister) should be satisfied that the overshadowing will not have an adverse impact on the vegetation within the foreshore reserve which may lead to a weakening of the dune system and advance coastal erosion processes.

### **Public Submissions**

It is noted that the Department received 13 letters of objection to this application following the advertising period. The issues raised in these submissions predominantly related to height, bulk and scale, setbacks, precedent, car parking and the importance of compliance of Council's Controls. The consent authority is required to have regard to these submissions when determining the application.

### **Environment and Health Services Comments**

The site is on class 5 on the Acid Sulphate Soils Planning Maps, and the applicant indicates that dewatering will not be required. The 1962 Aerial photograph indicates that the site was not subject to sand mining.

The applicant is requested to advise what type of refuse bins will be used for both commercial and tourist activities. One bin storage area appears to have been provided for tourist accommodation activities. Where on the site has provision been made for the storage of bins for commercial activities? Where will bins be placed for collection? If bins are to be placed in Hungerford Lane, it is noted that the lane is one way – is it proposed to place bins on the opposite side of the lane? Is there space? The applicant is requested to provide a detailed plan for waste management and collection.

The applicant is requested to make provision on the site for a car wash down space.

The applicant is requested to confirm that a grease arrestor will be installed (or provision made for the installation of same) to treat any wastewater from possible future food preparation activities in commercial areas.



The applicant is requested to confirm that provision has been made for internal ducting and cooking gases and to discharge any cooking gases above the roof line in accordance with AS 1668.

Whilst this information should be supplied to the consent authority Council's Environmental Health Officer has raised no further objection subject to recommended Conditions of Consent being imposed.

### **Building Services Comments**

Building Services have raised no issue to the proposal subject to recommended Conditions of Consent being imposed.

### **Engineering Services Comments**

The applicant is proposing to develop three neighbouring lots in Marine Parade Kingscliff. Two of these lots have been the subject of previous development applications. DA04/0064 refers only to Lot 4, Sec 4 DP 9453, known as No. 30 Marine Parade, and the following comments refer only to this lot.

The site has been previously cut, creating a steep rock pitched embankment approximately 6m high at the rear of the site along Hungerford Lane. The front portion of the site slopes more gradually from the base of this embankment towards the Marine Parade frontage. Stormwater flows from the site currently enter the kerb and gutter in Marine Parade via sheet flow, with some piped flow from existing buildings to the street. According to the applicant, the site is not subject to any external stormwater catchments. The crossfall on Hungerford Lane and a small section of kerb and gutter in this street would intercept any overland flows from the catchment above the site.

The legal point of discharge is the existing underground stormwater system in the Marine Parade road reserve. All stormwater from the site will be collected in an internal system and piped to Marine Parade. The applicant plans to construct a new manhole at the connection to the public system. Engineering details of this connection and the exact location of the manhole will be required with the s68 application. From inspection, this manhole could conflict with the trafficked lanes of Marine Parade, so requires an appropriate consent condition.

The applicant has adopted an onsite stormwater detention system (OSD) with controlled discharge, rather than demonstrating downstream capacity in the public system, as suggested in previous DAP minutes. Council accepts this proposal for OSD.

Both roof and driveway/car park runoff will be collected by the OSD system. Driveway/car park water will first be treated via an oil and grit separator, with a wet well size of 0.75m<sup>3</sup>, according to Council's D7 specification.

The erosion and sediment control plan attached to the application provides satisfactory treatment of stormwater runoff during construction, and adopts Council's "Code of Practice for Soil and Water Management on Construction Works", (Annexure A of D7).

It would appear that car parking space Number 8 is not in accordance with AS2890 figure 5.2 as the wall extends further than 1.5 metres and would require a further 300mm clearance.

Engineering Services have raised no further issues subject to recommended conditions of consent being imposed.

### **General terms of Approval - S138 Council is the Consent Authority**

The Department of Infrastructure Planning and Natural Resources (DIPNR) have requested Council's "General Terms of Approval" in relation to S138, for which Council is the consent authority.

The S138 Application has not yet been lodged and obviously if the Department determines to approve the application one of the conditions of consent will need to be the requirement for a S138 Application. However, as part of the DA the application is considered to be "Integrated Development" as a result of S138 and therefore the Department needs Council's General Terms of Approval prior to being able to determine the application.

The application was reviewed by Council's Technical Officer who raised no objection to the proposal in general or the "Integrated Component" and recommends the following General Terms of Approval:

1. *Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.*
2. *The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.*
3. *The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.*

4. *Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.*
5. *Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.*
6. *Prior to occupation of the building or the issue of a Subdivision Certificate, all disused invert crossings are to be removed and replaced with kerb and gutter and all disused driveway across the footpath are to be removed and replaced with topsoil and turf to the satisfaction of the Director, Engineering Services.*
7. *Rear parking area to be sealed with a 25mm asphalt surface.*
8. *Any damage caused to Marine Parade footpath is to be sawcut, removed and reinstated to existing levels.*
9. *The development works are not to impede traffic flows on either Hungerford Lane or Marine Parade*

### **Summary of Key Issues**

Hence, the key issues of this development, which requires further attention by the consent authority, are as follows:

- The proposal is on land with a three-storey height limit under Tweed Local Environmental Plan 2000. The Consent Authority should provide special attention to the height and visual prominence of the development having regard to the potential amenity impacts for adjoining residences and the increased overshadowing of the Coastal Reserve. It is considered that the 3-storey height limit should not be varied.
- Overshadowing;
- The lack of car parking and the need for S94 contributions in accordance with plan No. 23 to the value of \$120,060.
- Bulk and Scale;
- View Loss;
- The applicant is requested to provide a detailed plan for waste management and collection;
- The applicant is requested to make provision on the site for a car wash down space;
- It would appear that car parking space Number 8 is not in accordance with AS2890 figure 5.2 as the wall extends further than 1.5 metres and would require a further 300mm clearance;

- The applicant is requested to confirm that a grease arrestor will be installed (or provision made for the installation of same) to treat any wastewater from possible future food preparation activities in commercial areas; and
- The applicant is requested to confirm that provision has been made for internal ducting and cooking gases and to discharge any cooking gases above the roof line in accordance with AS 1668.
- Provided the above matters are addressed to the satisfaction of the Consent Authority, it is recommended Council give an expression of support for the proposal. Appropriate conditions of consent have been recommended.

## Draft Conditions of Consent

### GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos DA02-DA08 prepared by Pacific Projects Group Architects and dated 30 September 2003, except where varied by these conditions.  
[GEN0010]
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.  
[GEN0030]
3. In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.  
[GEN0050]
4. Advertising structures/signs to be the subject of a separate development application, where statutorily required.  
[GEN0070]
5. The proposed future retail uses must be the subject of a separate approval.  
[GEN0110]
6. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0120]
7. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-building, has:
- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
  - (ii) notified the principal certifying authority of any such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

8. The existing house drainage and water lines are to be capped off by a licenced plumber and be inspected by Council before demolition commences.

[GENNS01]

9. The overall height of the building shall not exceed RL 18.4 metres (excluding any lift over run, vent pipes, toilet exhaust fans, or car park exhaust fans which shall be no greater than 1.5m above this nominated height). In this regard a schedule of finished colours is to be submitted to Council prior to commencement of works. No other ancillary facilities are permitted to be located on the roof. On completion of the building documentation from a surveyor shall be provided to ensure compliance with this condition.

[GENNS01]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

10. The payment of a contribution of \$120,060 in lieu of the provision of 8 off street car parking spaces. The contribution to be paid in full prior to the issue of a Construction Certificate.

[PCC0020]

11. Section 94 Contributions

- (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- a. Tweed Road Contribution Plan: \$23,0260.00  
S94 Plan No. 4 (Version 4.0)  
**(Sector 6)**

#### **Heavy Haulage Component**

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod. Projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. Average haulage distance of product on Shire roads  
(trip one way)

$\text{\$Unit}$  the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

b.	Open Space (Casual): S94 Plan No. 5	\$87.00
c.	Community Facilities (Tweed Coast) (North Coast) S94 Plan No. 15	\$1,476.00
d.	Emergency Facilities (Surf Lifesaving) <b>(Remshire)</b> S94 Plan No. 16	\$349.00
e.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$676.21
f.	Cycleways S94 Plan No. 22	\$584.00
g.	Shirewide Car Parking S94 Plan No. 23	\$120,060.00
h.	Regional Open Space (Casual)	\$115.00

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S94 Plan No. 26

[PCC0050/PSC0005]

12. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water: \$1,315.00

Sewer: \$1,053.00

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

13. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCC0190]

14. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as

an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.

- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Specific requirements:
  - (i) An oil/grit arrestor shall be installed to remove pollutants generated from undercover and basement car parking areas, and must satisfy the following sizing requirements: -
    - Storage volume must be available for the combined Sediment Tank and Oil Storage Capacity to retain no less than  $0.5\text{m}^3$  per  $1000\text{m}^2$  of undercover/basement area.
    - The minimum retained volume of any Oil/Grit arrestor is  $0.75\text{m}^3$ .

[PCC0230]

15. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC0240]

16. Pursuant to Section 68 of the Local Government Act, 1993 to ensure there is no unacceptable discharge to Councils sewerage system an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed to details approved prior to the issuing of a Construction Certificate. The development will be required to meet discharge standards in accordance with Councils Trade Waste Policy.

[PCC0290]

17. Erosion and Sediment Control During the Construction Phase of Development
- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.



- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

18. Provide cross sections of the footpath at Marine Parade through to the proposed ground floor area showing RL levels and grades so as to establish that disabled access in accordance with AS1428 can be provided to all areas of the ground floor and that general pedestrian movement along the pavement will be provided to the satisfaction of the Director of Engineering and Operations. General pedestrian movement requirements should be discussed with Council's Technical Officer of the Works Unit.

The RL levels established to satisfy the above requirement should be considered with due regard to the 150 diameter stormwater detention discharge pipes noted in the Stormwater Management Plan.

19. Provide an engineers design statement that the proposed excavation and necessary retaining can be achieved without affecting the integrity of the adjoining properties and structures thereon including the public roadway known as Hungerford Lane. The engineer is to advise in the above statement if it will be necessary to enter onto the adjoining land to carry out or do any work and if so consent from the affected landowners will be required for the specific work.
20. Provide design concepts of the proposed water metre location, sewer inspection shaft and any likely trade waste arrestor locations and the serviceability of same.
21. Provide details to demonstrate that the demolition and construction on the site can be carried out in a manner to minimize nuisance to surrounding properties and that traffic control, pedestrian diversion and construction loading and storage areas are available.
22. The construction certificate plans are to indicate the following and shall be submitted to and approved by Council: -
- i. The stormwater manhole at the junction of the private and public stormwater lines shall be constructed by the applicant to Tweed Shire Council specifications, and shall be located clear of the main traffic paths in Marine Parade. The applicant shall submit details of the connection, its exact location and restoration requirements for Marine Parade with the construction certificate application.

[PCCNS01]

#### **PRIOR TO COMMENCEMENT OF WORK**

23. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0010]

24. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.
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[PCW0030]

25. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised to the satisfaction of the Principal Certifying Authority and provided with a dish drain or similar at the base or otherwise retained to the satisfaction of the Principle Certifying Authority. All retaining works shall be completed to the satisfaction of the Principal Certifying Authority prior to start of building work. Please note timber retaining walls are not permitted.

[PCW0040]

26. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
- (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
  - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
  - (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
    - (A) the method of protection; and
    - (B) the date of installation of the system; and
    - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
    - (D) the need to maintain and inspect the system on a regular basis.

**Note:**

Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

[PCW0050]

27. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
  - (c) if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

28. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0070]

29. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:
- i. The person must, at the person's own expense:
    - a. preserve and protect the building from damage; and
    - b. if necessary, underpin and support the building in an approved manner.
  - ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

30. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

[PCW0090]

31. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

[PCW0190]

32. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW0210]

33. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced.

[PCW0220]

34. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

[PCW0230]

35. An application to disconnect sewer and water is to be submitted to and approved by Council prior to commencement of any work on the site.

36. Prior to the commencement of works sedimentation and erosion control measures shall be installed to the satisfaction of the Director of Environment and Community Services.

[PCWNS01]

## DURING CONSTRUCTION

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37. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made). [DUR0010]
38. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works. [DUR0040]
39. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction. [DUR0080]
40. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos. [DUR0100]
41. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council. [DUR0130]
42. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate. [DUR0150]
43. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0160]
44. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979. [DUR0170]
45. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied. [DUR0200]
46. a. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.  
b. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property. [DUR0210]
47. If the work involved in the erection or demolition of a building:  
a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or  
b. building involves the enclosure of a public place,  
a hoarding or fence must be erected between the work site and the public place.
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If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

An application for hoarding together with the prescribed fee is to be submitted to Council for approval prior to work commencing.

- [DUR0220]
48. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.
- [DUR0240]
49. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.
- [DUR0260]
50. If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.
- [DUR0280]
51. Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 1989 and Council's adopted Code for the construction of Food Premises. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.
- [DUR0310]
52. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Marine Parade. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 3% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. The footpaving is to be located 800 millimetres from the property boundary. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and maintained unvaried across the (any) driveway cross-section. An inspection of the formwork is to be arranged with Council's Engineering Services Division prior to concrete being placed.
- [DUR0520]
53. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are

to be submitted to and approved by the Director of Environment and Community Services prior to installation

[DUR0670]

54. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR0730]

55. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.

[DUR0850]

56. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.

[DUR0860]

57. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

[DUR0870]

58. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.

[DUR0880]

59. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.

[DUR0900]

60. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0910]

61. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.

[DUR0920]

62. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of

minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services.

[DUR0930]

63. The burning of builders waste on site by open fire is prohibited.

[DUR0940]

64. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.

[DUR0950]

65. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.

[DUR0960]

66. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR0980]

67. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning.

[DUR1000]

68. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- a. internal drainage, prior to slab preparation;
- b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- c. external drainage prior to backfilling.
- d. completion of work and prior to occupation of the building.

[DUR1020]

69. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.

B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR1030]

70. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR1040]

71. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.

[DUR1070]

72. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DUR1090]

73. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR1110]

74. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR1130]
75. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-  
\* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and  
\* 50<sup>0</sup>C in all other classes of buildings.  
A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR1160]
76. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water. [DUR1170]
77. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention. [DUR1180]
78. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:  
i. All required erosion and sedimentation control devices have been installed and are operational.  
ii. Required toilet facilities have been provided on the site.  
iii. A sign has been erected on the site identifying:  
• Lot number  
• Builder  
• Phone number of builder or person responsible for site.  
iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.  
v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000. [DUR1200]
79. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1210]
80. The site shall not be dewatered.
81. Any cooking gases fro commercial premises shall be ducted internally within the building and discharged above the roof in accordance with AS1668.
82. Building activities shall not be permitted to impact the amenity of any existing footpath dining activities.
83. Acid sulfate soils shall not be exposed or disturbed.
84. Discharge management of stormwater shall be implemented according to Section 3.4 of the Stormwater Management Plan prepared by Cozens Regan Williams Prove Pty Ltd, dated September 2003.
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85. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering and Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
86. The full width concrete Footpaving on Marine Parade is not to be altered to provide ramps into the shops. The shops are to ensure all ramps or steps are contained internally if the floor slab is higher than the footpath level at the sites boundary with Marine Parade.
87. The driveway entrance shall be graded to ensure Q100 stormwater runoff from the Hungerford Lane kerb and gutter does not enter the site.
88. Existing layback crossover in Marine Parade and access ramps in Hungerford Lane are to be removed and replaced with upright kerb.
89. Kerb and gutter for full frontage of the site to Hungerford Lane.
90. The area behind the kerb to the boundary in Hungerford Lane is to be concreted to form a narrow off road pathway.
91. The third floor tourist accommodation units are not to increase the area of covered roof decks from that indicated on the approved plans. This condition has been imposed to reduce the bulk and scale of the building when viewed from the foreshore.
92. No part of the building other than the pedestrian awnings and associated screens and anchors are to protrude beyond the confines of the property boundary.

[DURNS01]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

93. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications and conditions of Consent.

[POC0020]

#### **USE**

94. The use being restricted to the floor area designated on the approved plan.
95. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.
96. No items or goods are to be stored or displayed outside the confines of the premises.
97. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
98. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
99. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.

[USE0240]

100. All wastes shall be collected, stored and disposed to the satisfaction of the Director of Environment and Community Services. Wastes shall be presented at the kerb in a Council approved wheelie bin for collection. A screened, graded and drained bin storage area shall be provided within the boundary of the property.
101. Use of the swimming pool or lighting shall not be permitted to impact the amenity of any other premises.
102. Footpath dining activities shall not be carried out without the prior approval of Council.
103. This application has approved 4 tourist accommodation units and 1 retail outlet. Any future change of use shall be subject to separate approval and may attract additional parking requirements and additional Section 94 contributions.
104. The approved retail/commercial units are not to be used for restaurant or cafe use without prior development consent.
105. Tourist accommodation units are for short term accommodation only. No permanent occupation is permissible.

[USENS01]

### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

106. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No DA04/0064 have been complied with.  
[PSC0010]
107. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:
  - i. Easements for sewer, water supply and drainage over **ALL** services on private property.
  - ii. The provision of a right of way over the proposed consolidated lots currently Lots 2 and 3 DP 172565.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0020]

108. Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.
  - (i) The following information must accompany an application:
    - original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$122 per lot.
    - relevant development consent
    - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)

- evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
  - a certificate of compliance from the relevant water supply authority (where applicable)
  - for subdivision involving subdivision works evidence that:
    - the work has been completed, or
    - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
    - security given to the consent authority with respect to the completion of the work
  - Work as Executed Plans for **ALL** works
- (ii) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.
- (iii) Written evidence from Council that the proposed road/street names have been approved.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0090]

#### **GENERAL TERMS OF APPROVAL FOR SECTION 138 APPLICATION AS CONSENT AUTHORITY**

1. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
2. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.
3. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.
4. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.
5. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
6. Prior to occupation of the building **or** the issue of a Subdivision Certificate, all disused invert crossings are to be removed and replaced with kerb and gutter and all disused driveway across the footpath are to be removed and replaced with topsoil and turf to the satisfaction of the Director, Engineering Services.
7. Rear parking area to be sealed with a 25mm asphalt surface.

8. Any damage caused to Marine Parade footpath is to be sawcut, removed and reinstated to existing levels.
9. The development works are not to impede traffic flows on either Hungerford Lane or Marine Parade.

**OPTIONS:**

1. As per the recommendation.
2. Advise the Minister that Council does not support the application.
3. Advise the Minister of alternative or additional issues and/or draft conditions.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The issues raised in this report are to be forwarded to the Director General of the Department of Infrastructure, Planning and Natural Resources to be considered as part of their report to the Minister.

**UNDER SEPARATE COVER:**

1. Plans of the development x 7
-

**6 [DS] Development Application DA03/1348 for a Subdivision into 17 Lots at Lot 2 DP 871171, Lot 731 DP 48275, Lot 515 DP 755740, No. 4A Oyster Point Road, Banora Point**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA03/1348 Pt1**

**SUMMARY OF REPORT:**

Council considered a report in relation to the proposed subdivision at its meeting of 5 May 2004 and resolved:

*"That this item be deferred and that Council requests the Roads and Traffic Authority purchase Lot 2 DP 871171, Lot 731 DP 48275, Lot 515 DP 755740 No.4A Oyster Point Road, Banora Point."*

Council's resolution has been acted upon with the Roads and Traffic Authority being asked to confirm in writing whether they have an intention to purchase the land. It is however noted that the applicant provided a letter from the Roads and Traffic Authority dated 1 April 2003 that advises that it is unlikely that future work will identify the need for a part of the subject property.

A copy of the Roads and Traffic Authority letter dated 1 April 2003 is attached to this report. It is considered that the proposal can be determined.

**RECOMMENDATION:**

That Development Application DA03/1348 for a subdivision into 17 lots at Lot 2 DP 871171, Lot 731 DP 48275 & Lot 515 DP 755740 into two stages at No. 4A Oyster Point Road, Banora Point be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans Nos 0358IBN-S02 prepared by Stewart McIntyre & Associates and dated 24/11/2003, and Plan No.0358IBN-S05 prepared by Stewart McIntyre & Associates and dated 12/3/2004 except where varied by these conditions.

[GEN0010]

2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.

[GEN0030]

3. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.

[GEN0040]

4. No retaining walls or similar structures are to be constructed over Council's sewer main.

[GEN0090]

5. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and required by this consent.

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
- earthworks
  - roadworks
  - road pavement
  - acoustic barrier
  - road furnishings
  - stormwater drainage
  - water supply works
  - sewerage works
  - landscaping works
  - sedimentation and erosion management plans
  - location of all service conduits (water, sewer, Country Energy and Telstra)
  - the approved Traffic Control Plan
  - the relevant maintenance manuals (eg. G.P.T's, water pump station)

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[GEN0140]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

6. A detailed plan of landscaping is to be submitted and approved by Council's Director Planning and Environment prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to release of subdivision certificate.

[PCC0010]

7. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA

document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.

[PCC0040]

- 8. Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the Director Planning and Environment.

The bond will be refunded, if not expended, when the final Subdivision Certificate is issued.

[PCC0080]

9. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill and cut batters shall be obtained wholly within the subject land.

[PCC0090]

10. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
- i. Construction along the full length of the proposed subdivision roll top kerb and gutter/vertical face kerb and gutter on an approved alignment along with associated sub-surface and over-land stormwater drainage systems and 9 metre wide road pavement from the lip of the new kerb and gutter to the edge of the existing bitumen pavement including tapers.
  - ii. The road reserve in the subdivision shall be generally in accordance with drawing 0358IBN-S02 prepared by Stewart McIntyre & Associates dated 24/11/2003.
  - iii. Construction of a stormwater drainage system that will convey all waters through the site to a legal point of discharge. The sub-surface and over-land drainage systems shall convey the respective flows from minor and major storm events. Clearly defined upstream catchment areas and supporting stormwater calculations shall accompany the engineering design plans.
  - iv. The proponent shall submit detailed plans and specification with an application for Construction Certificate for, but is not limited to, the proposed link road, associated services, subsurface overland flow and

piped stormwater drainage structures designed in accordance with DCP16.

[PCC0180]

11. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCC0190]

12. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Permanent stormwater treatment shall be in general accordance with the Stormwater Management Plan prepared by Cozens Regan Williams Prove (August 2003) attached to the development application.

[PCC0230]

13. A construction certificate application for works that involve any of the following:-



- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC0240]

14. Erosion and Sediment Control During the Construction Phase of Development

- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

15. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17<sup>0</sup> or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- i) Contours and terraces where the height exceeds 1m.
- ii) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- iii) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.

- iv) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.
  - v) The landscaping shall be completed to the satisfaction of the Director Planning and Environment **PRIOR** to the issue of a Subdivision Certificate.
  - vi) A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.
- [PCC0330]
16. Construction Certificate drawings shall make provision for the design of earthworks, land forming and site regarding in accordance with "Development Design Specification - Site Regrading" or to the satisfaction of the Director Engineering Services.
- [PCCNS01]
17. All retaining walls are to be designed by a suitably qualified geotechnical/structural engineer in accordance with AS4678-2002- Earth Retaining Structures. A report that details compliance with the design provisions of this standard is to accompany the Construction certificate Drawings.
- [PCCNS01]
18. Details of the proposed roof water disposal for dwellings on Lots 6 - 15 inclusive, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.

All roof water shall be discharged to infiltration pits located wholly within the subject allotment.

The infiltration rate for sizing infiltration devices shall be 3m per day:

- As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24-hour period, before surcharging occurs.

Surcharge overflow from the infiltration area must be directed into the proposed inter-allotment drainage (IAD) as shown on Cozens Regan Williams Prove engineering drawing M.20.0vSK1 by visible surface flow, not piped.

Runoff is to be pre-treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).

If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).

All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.

All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.

All infiltration devices are to be located clear of stormwater or sewer easements.

The IAD line is to discharge to a level spreader in proposed Lot 6 to distribute flows across the full width of Lot 6.

An easement favouring all benefiting properties is to be obtained over the IAD system, discharge structures and level spreader and over all of Lot 6 downstream of the level spreader.

[PCCNS02]

19. Prior to the issue of a construction certificate for stage 2 the applicant shall satisfy the requirements of the NSW Roads and Traffic Authority and Tweed Shire Council in terms of the design of any acoustic barriers required for the subdivision.
20. Prior to the issue of a construction certificate for stage 2 the applicant shall submit to Council an acoustic report providing the design measures required for future residences in stage 2 of the subdivision. The acoustic report for the design measures for the future residences shall have regard to the acoustic barrier referred to in condition 19 above.

[PCCNS03]

#### **PRIOR TO COMMENCEMENT OF WORK**

21. Subdivision work in accordance with a development consent must not be commenced until:-
  - (a) a construction certificate for the subdivision work has been issued by:
    - (i) the consent authority, or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:
    - (i) has appointed a principal certifying authority, and

- (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.
- [PCW0020]
22. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director Planning and Environment. The sign is to remain in place until the Subdivision Certificate is issued.
- [PCW0030]
23. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.
- [PCW0090]
24. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Planning and Environment.
- [PCW0140]
25. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

[PCW0190]

26. Where water is required to be drawn from Council's water reticulation system it shall be the applicants responsibility to notify the Engineering Services Division prior to taking water.

All drawn water shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[PCW0260]

**27. Prior** to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-

- a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
- b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

[PCW0270]

#### **DURING CONSTRUCTION**

28. All engineering works required to be approved prior to the issue of a construction certificate are to be constructed in accordance with the approval.

[DUR0020]

29. No soil, sand, gravel, clay or other material shall be disposed of off the site.

[DUR0030]

30. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR0040]

31. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[DUR0150]

32. Prior to the application for a **Subdivision Certificate** a Compliance Certificate or Certificates shall be obtained from Council **OR** an accredited certifier for the following:-

- (i) Compliance Certificate - Roads
- (ii) Compliance Certificate - Water Reticulation
- (iii) Compliance Certificate - Sewerage Reticulation
- (iv) Compliance Certificate - Sewerage Pump Station
- (v) Compliance Certificate - Drainage

**Note:** 1. Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction

certificate, DCP16 - Subdivision Manual and good Engineering Practice.

2. Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

**Roadworks**

- a. Pre-construction commencement erosion and sedimentation control measures
- b. Completion of earthworks
- c. Excavation of subgrade
- d. Pavement - sub-base
- e. Pavement - pre kerb
- f. Pavement - pre seal
- g. Pathways, footways, bikeways - formwork/reinforcement
- h. Final inspections - on maintenance
- i. Off Maintenance inspection

**Water Reticulation, Sewer Reticulation, Drainage**

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits
- e. Backfilling
- f. Permanent erosion and sedimentation control measures
- g. Drainage channels
- h. Final inspection - on maintenance
- i. Off maintenance

**Sewer Pump Station**

- a. Excavation
- b. Formwork/reinforcement
- c. Hydraulics
- d. Mechanical/electrical
- e. Commissioning - on maintenance
- f. Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR0360]

33. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.

- a. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
  - b. That the pavement materials used comply with the specifications in RTA Form Q3051 (June 1998)
  - c. That the pavement layers have been compacted to RTA specifications.
  - d. That site fill areas have been compacted to the specified standard.
  - e. That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
  - f. That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.
34. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans **AND** the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent. [DUR0370]  
[DUR0400]
35. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken. [DUR0430]
36. The footpath area is to be graded to the kerb and turfed for the full frontage of the site. [DUR0510]
37. On completion of the filling work, all topsoil to be respread and the site revegetated. [DUR0550]
38. Inter allotment drainage shall be provided to **all** lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means. [DUR0580]
39. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix B, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798. [DUR0630]

40. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR0730]

41. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.

[DUR0850]

42. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

[DUR0870]

43. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.

[DUR0880]

44. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.

[DUR0890]

45. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.

[DUR0900]

46. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

- A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.



- B. Long term period - the duration.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.  
[DUR0910]
47. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.  
[DUR0920]
48. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is constructed in accordance with Tweed Shire Council Design Specification D7 - Stormwater Quality.  
[DUR0930]
49. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.  
[DUR1210]
50. The horizontal and vertical alignment of the proposed link road shall transition smoothly into the existing pavement of Martinelli Avenue and Bione Avenue in accordance with DCP16.
51. The vertical alignment of the proposed link road shall be such that the sag in the kerb and channel aligns with the easement to drain water that exists within Lot 1 DP 1034399.
52. For storms up to a Q100 ARI event, overland flow associated with the development must be conveyed through designated overland flow paths, prior to breaching the crest in the road reserve of Martinelli Avenue, east of the site.
53. In accordance with DCP16, the formed nature strip of the proposed road reserve is to be 3.5m wide at 2% crossfall.
54. In accordance with DCP16, the proposed kerb and channel is to be standard Tweed Shire Council Upright, not Layback.
55. In accordance with DCP16, a 1.2m wide footpath is to be constructed on one side of the proposed link road. The nominated side is to be confirmed by Council.
56. The driveways servicing proposed Lots 13 and 14 are to be constructed for the full length of the access shafts in accordance with Tweed Shire Council's DCP16.

57. Erosion and Sedimentation control measures shall be carried out in accordance with the Erosion and Sediment Control Plan prepared by Cozens Regan Williams and Prove Pty Ltd dated August 2003.

[DURNS01]

**PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

58. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

**Stage 2**

Water:	14 lots @ \$4110	\$57,540.00
Sewer:	14 lots @ \$3290	\$46,060.00

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

59. Section 94 Contributions  
(i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

**Stage 2**

- a. Tweed Road Contribution Plan: \$23,576.00  
 S94 Plan No. 4 (Version 4.0)  
**(Tweed South - Sector 2)**

**Heavy Haulage Component**

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads (trip one way)

\\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- b. Open Space (Structured): \$10,920.00  
 S94 Plan No. 5
- c. Open Space (Casual): \$2,338.00  
 S94 Plan No. 5
- d. Street Trees: \$600.60  
 S94 Plan No. 6
- e. Shirewide Library Facilities: \$9,632.00  
 S94 Plan No. 11
- f. Bus Shelters: \$322.00  
 S94 Plan No. 12
- g. Eviron Cemetery/Crematorium Facilities: \$1,764.00  
 S94 Plan No. 13
- h. Emergency Facilities (Surf Lifesaving) \$3,010.00  
**(REMSHIRE)**  
 S94 Plan No. 16

- i. Extensions to Council Administration Offices  
& Technical Support Facilities  
S94 Plan No. 18 \$4,827.34
- j. Cycleways  
S94 Plan No. 22 \$2,240.00
- k. Regional Open Space (Structured)  
S94 Plan No. 26 \$16,478.00
- l. Regional Open Space (Casual)  
S94 Plan No. 26 \$3,094.00

60. A Subdivision Certificate will not be issued for each stage by the General Manager until such time as all relevant conditions of Development Consent No DA03/1348 have been complied with. [PCC0050/PSC0005]

61. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following: [PSC0010]

- i. Easements for sewer, water supply and drainage over **ALL** services on private property.
- ii. Restriction as to user for all lots within Stage 2 of the subdivision to ensure future dwelling houses are designed in accordance with the acoustic design measures in the acoustic report as required in Condition 20.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0020]

62. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.

[PSC0040]

63. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Councils Surveyor within two months of the issue of the Subdivision Certificate.

[PSC0060]

64. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director Planning and Environment **PRIOR** to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0070]

65. Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.

(i) The following information must accompany an application:

- original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$122.00 per lot.
- relevant development consent
- detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
- evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
- a certificate of compliance from the relevant water supply authority (where applicable)
- for subdivision involving subdivision works evidence that:
  - the work has been completed, or
  - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
  - security given to the consent authority with respect to the completion of the work
- Work as Executed Plans for **ALL** works

(ii) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.

(iii) Written evidence from Council that the proposed road/street names have been approved.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0090]

66. Prior to the issue of a **Subdivision Certificate**, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual.

The plans are to be endorsed by a Registered Surveyor **AND** a Consulting Engineer Certifying that:

- (i) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
- (ii) the plans accurately reflect the Work as Executed.

**Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.**

[PSC0100]

67. Prior to the issue of a **Subdivision Certificate** a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued and will be refunded following the remedying of any defects arising within the 6 month period.

[PSC0110]

68. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

Any defects identified by the inspection are to be repaired using any one of the following repair techniques or such other technique as may be approved by the Director of Engineering Services.

- Tiger Patch patch liner;
- Econoliner;
- PL Quick Sleeve System;
- Flexi-Bond method

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC0140]

69. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

Council does not permit the building over Council's sewers. When buildings are located in close proximity to the sewer, detailed plans of footing types, location and depth relative to the sewer are required to be included with the Construction Certificate Application.

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0150]

70. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC0170]

71. i. The production of written evidence from Country Energy certifying that reticulation of underground electricity (residential and rural residential) has been completed; and

ii. The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

[PSC0190]

72. All stormwater gully lintels shall have the following notice **cast** into the top of the lintel: '**DUMP NO RUBBISH, FLOWS INTO CREEK**' or similar wording to the satisfaction of the Director of Development Services.

[PSC0220]

73. (i) **PRIOR** to lodging an application for a Subdivision Certificate, the applicant shall obtain the written approval of Council to the proposed road/street names. Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

(ii) Street signs shall be erected clearly indicating the interface between Bione Avenue and Martinelli Avenue in accordance with Tweed Shire Council's Standard Drawing 041.

The names shall be approved **PRIOR** to lodgement of any plan of subdivision in respect of the development.

[PSC0230]

74. All retaining walls are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002-Earth Retaining Structures and are structurally sound.

In addition to the above certification the following is to be included in the S88B Instrument to accompany the final plan of subdivision.

- i. A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.5m in vertical height.
- ii. Each lot burdened and or benefited by a type 1 wall as defined in AS4678-2002- Earth retaining Structures, shall contain a restriction to user advising the landowner of the need to monitor and maintain the structure in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

75. Prior to the issue of Subdivision Certificate for Stage 2 the acoustic barriers referred to in Condition 19 are to be constructed or alternatively these works may be bonded for an amount agreed to by Tweed Shire Council.

[PSCNS01]

**GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997**

1. Reticulated water supply shall comply with AS2419. Locations of fire hydrants are to be delineated by blue pavement markers in the centre of the road.
2. Any future development application lodged for this subdivision under section 79BA of the EP & A Act will be subject to the requirements as set out in Planning for Bushfire Protection, 2001.
3. The proposed road shall comply with 4.3.1 Planning for Bushfire Protection 2001.
4. Property access to lots 14 and 15 shall comply with 4.3.2 Planning for Bushfire Protection 2001. To achieve the required width for an access road, no obstruction or barrier (fence, etc) is to be erected between the access roads to the two lots.
5. There shall be a minimum of 20 metres from the vegetation on the south-western boundary to any proposed dwelling to be maintained as an 'Inner Protection Area' as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.
6. The proposed fire trail is to be deleted as the maintenance on private lots is impractical and the provision of a 20 metre Asset Protection Zone provides sufficient protection from the vegetation.



**REPORT:**

**Applicant:** Matilda Constructions Pty Ltd  
**Owner:** Mrs PTE Yates, Mr L Constantine & Mrs F Constantine  
**Location:** Lot 2 DP 871171, Lot 731 DP 48275 and Lot 515 DP 755740 No. 4A  
Oyster Point Road, Banora Point  
**Zoning:** 2(a) Low Density Residential  
**Cost:** \$300,000.00

**BACKGROUND:**

The subject land has been zoned 2(a) Low Density Residential at the commencement of the Tweed Local Environmental Plan 1987 and continues under the current planning instrument to be identified for the low density residential purposes.

The land adjoining the subject land is zoned 5(a) Special Uses for Roads and Traffic Authority purposes under the Tweed Local Environmental Plan 2000. The adjoining land is to accommodate a future road corridor. As the Roads and Traffic Authority have an interest in the adjoining land the proposal was referred for comments.

The issue of future noise impacts on the residential subdivision was raised in the assessment. The RTA was requested to provide details on the alignment and design so that the applicant could engage an acoustic consultant to provide design details on any required acoustic fencing or restriction as to user on future dwelling houses.

However as the RTA are unable at this stage to provide the information required it has been suggested that the noise mitigation measures may be bonded or deferred commencement until such time as further design detail for the Sextons Hill Bypass is finalised.

In the absence of the final design the RTA refers Council to certain design manuals for indicative costs for reasonable treatment options and the code for housing design and layout. The recommended conditions of consent include the requirement for an acoustic report prior to the issue of a construction certificate for Stage 2 thereby ensuring the subdivision meets the RTA requirements and that future dwelling houses are provided with appropriate noise attenuation measures.

**SITE DIAGRAM:**



**CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**

**(a) (i) The provisions of any environmental planning instrument**

Tweed Local Environmental Plan 2000

The subject land is zoned 2(a) Low Density Residential under the Tweed Local Environmental Plan 2000. The primary objective of the zone is:

*"To provide for and maintain a low density residential environment with a predominantly detached housing character and amenity."*

The proposed subdivision layout provides allotments that can support detached housing and maintain a low density residential environment. The proposed subdivision is not considered to undermine the primary objective of the zone.

The proposed residential allotments are wholly within the 2(a) Low Density residential zone and the area of each allotment complies with the minimum of 450m<sup>2</sup> required for the erection of a dwelling house.

Clause 15 of the TLEP requires the provision of essential services or suitable arrangements being made prior to consent being granted. The applicant has provided engineering reports that conclude that there is adequate capacity in the existing sewerage system and water supply system to service the proposed residential lots. Council's Development Engineer has recommended conditions of consent to ensure servicing of the proposed subdivision.

Clause 35 of the TLEP ensures the management of acid sulfate soils. The subject land is not affected by acid sulfate soils. As such no management plan is required for the proposal.

North Coast Regional Environmental Plan 1988

Clause 12 of the REP states that Council shall not consent to development on rural land unless it has considered the likely impact on adjoining land, whether or not the development will result in loss of prime agricultural land. The subject land is zoned for residential purposes and does not adjoin any rural land. No further assessment is considered necessary under this clause.

Clause 15 of the REP provides for the protection of wetlands and waterways from development. The subject land does not drain into any wetland or stream area and is not likely to impact on a fishery. The proposed development does not require further assessment under this clause.

Clause 32B of the REP requires Council to take into consideration the Coastal Policy and North Coast Design Guidelines in relation to development of land within the coastal zone. The applicant has completed an assessment under the relevant provisions. There are no specific matters for which the proposal requires more detailed assessment. The site is not adjoining any foreshore open space areas.

Clause 43 of the REP requires densities to be maximised for residential development. As the subject land is required to provide the Bione and Martinelli link for connectivity not all of the area is able to be utilised. The applicant has submitted that a yield of 9 dwellings per hectare will result from the development. In achieving this density the proposed development is not considered to undermine any environmental attributes of the site.

Clause 66 of the REP requires Council when considering an application to subdivide land whether the community and welfare services are adequate. The subject land is within close proximity of Tweed Heads and future residents will be able to access existing services.

Clause 81 of the REP requires the consideration of potential impacts for development adjacent to the ocean or a waterway. The subject land is not within 100 metres of any waterway.

The proposed subdivision is not considered to be in conflict with any provision of the REP.

#### State Environmental Planning Policies

##### State Environmental Planning Policy No.55 - Remediation of Land

The applicant submitted preliminary information in relation to land contamination that was assessed by Council's Environmental Health Surveyor. The proposal is considered to have satisfied Council's requirements in relation to contaminated lands.

##### State Environmental Planning Policy No.71 - Coastal Protection

The subject land is not mapped as a sensitive coastal location.

Clause 18 of SEPP71 requires Master Plans for subdivision of land within a residential zone that is not identified as a sensitive coastal location into more than 25 lots unless the Minister has adopted a master plan for the land or has waived the need for a master plan.

As the proposed subdivision is less than 25 lots a master plan is not required. The proposed development is not considered to be in conflict with the provisions of Clause 8 of SEPP 71.

**(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

The proposed subdivision does not require any further assessment under the draft environmental planning instruments.

**(a) (iii) Development Control Plans (DCP's)**

Development Control Plan No.16 - Subdivision Manual

Council's Subdivision Engineer has assessed the proposed subdivision and raises no objection to the proposal. Conditions of consent have been recommended to ensure the subdivision meets Council's requirements.

**(a) (iv) Any Matters Prescribed by the Regulations**

The subject land is affected by the NSW Coastal Policy 1997. The proposed subdivision is not in conflict with the goals and objectives of this strategic policy.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Natural Environment

The subject land is characterised by Closed-grassland and contains regrowth vegetation dominated by Acacia, Macaranga and Glochidion sp. The applicants flora fauna consultant has advised that there are no ROTAP species on site. The applicant has submitted an eight part test which concludes that the proposed development will not result in a significant effect on the threatened species that may occur at or utilise the subject site. As such, a Species Impact Statement is not required.

Subdivision Layout

The proposed subdivision is designed around the link of Bione and Martinelli Avenues. The proposed subdivision has been designed based on the contours and the requirement for the connection of the two existing roads.

The proposed subdivision is undertaken in two stages. Stage 1 creates 3 lots being 2646m<sup>2</sup>, 3870m<sup>2</sup> and 15230m<sup>2</sup>. Stage 1 creates two lots for existing residences and one development lot for the proposed residential subdivision.

Stage 2 creates 15 lots ranging in size from 610m<sup>2</sup> to 2616m<sup>2</sup>. The average lot size is 750m<sup>2</sup>. The lot that is 2616m<sup>2</sup> accommodates additional area for bushfire asset protection zones.

The lot layout is predetermined by the need for the road connection. The proposed subdivision involves the creation of 15 new residential lots of which 12 lots will have the longest axis on the northern and southern elevation, thereby providing good opportunity for future housing design to meet energy efficient requirements.

The proposed subdivision creates a further 3 residential lots that are orientated more towards the eastern and western elevation. These 3 lots have adequate building envelopes that would enable good housing design. It is considered that all of the proposed allotments would have the ability to capture prevailing winds and are of suitable design.

The proposed subdivision design included the provision of a perimeter fire trail abutting adjoining land in the ownership of the NSW Roads and Traffic Authority. However the NSW Rural Fire Service have nominated a 20 metre wide asset protection zone rather than the perimeter road. The allotments that are adjacent to the RTA land have adequate lot depth to provide a 15 x 10 metres building envelope, and the required 20 metre wide asset protection zone.

Council's Development Engineer has not raised any objection to the design of the proposed subdivision. The proposed subdivision is considered to be of a reasonable design.

**(c) Suitability of the site for the development**

Traffic Noise

The proposed subdivision is located adjacent to land owned by the NSW Roads and Traffic Authority. The RTA were requested for information in relation to the design of the Sextons Hill Bypass to assist the applicant in the preparation of an acoustic report. Depending on the design of the new roadway, which could be a tunnel or elevated road the noise barriers for the proposed subdivision would vary.

In the absence of a final design for the Sextons Hill Bypass the RTA have advised that deferred commencement or bonding of noise barriers would be a solution. The RTA have indicated that the concept design will be finalised by mid 2005. They have also indicated that information can be provided from a nearby noise study upon its completion in the near future.

The noise abatement measures are required for Stage 2 of the proposed subdivision. Stage 1 does not necessitate noise barriers as it provides the boundary adjustment for the creation of the development lot. The recommended conditions of consent provide the opportunity for the applicant to proceed to the completion of Stage 1 and at Stage 2 issues of acoustic barrier design are to be finalised in consultation with the NSW Roads and Traffic Authority. The opportunity also exists in the recommended conditions that the acoustic measures can be bonded.

While it is preferable that all noise matters are finalised prior to determination of development applications, it is considered that in the absence of the final design for Sextons Hill the solution provided by way of the recommended conditions will ensure future residential lots meet the noise requirements of Council.

### Bushfire Hazard

The proposed subdivision is identified as being integrated development and requires the general terms of approval from the NSW Rural Fire Service. The applicant submitted additional information required and on 11<sup>th</sup> February 2004 the general terms of approval of the NSW Rural Fire Service were issued.

#### **(d) Any submissions made in accordance with the Act or Regulations**

The proposed subdivision was notified to adjoining property owners. During the notification period two submissions were received. The following table addresses the issues raised.

<b>Issue</b>	<b>Comment</b>	<b>Assessment</b>
Natural Environment	Concern was raised that the area supports flocks of Black Cockatoos, and that the site should not be bulldozed. Careful assessment of the tree removal was requested.	The subject land does contain some vegetation that the applicants flora fauna consultant identified as being Closed Grassland. The consultant has completed an eight part test and concludes that the proposal is not likely to result in a significant impact. The site does not support any significant vegetation and it is considered that the proposed development does not warrant refusal on this issue.
Infrastructure	Concern was raised that the subdivision will need	Council's Development Engineer assessed the

	<p>to manage stormwater to not result in inundation of adjoining property. The addition of sewerage and capacity of the mains was raised as a concern.</p>	<p>issues raised in the submission and has no objection to the proposed subdivision. Conditions have been imposed to ensure the development meets Council's requirements.</p> <p>The proposal does not warrant refusal on this issue.</p>
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**(e) Public interest**

The proposed subdivision is in a prominent location and forms part of the residential precinct located at East Banora. The proposed subdivision is considered to be consistent with the intended use of the land.

The issue of bushfire raised by the proposed subdivision has been resolved with NSW Rural Fire Service issuing general terms of approval. The issue of traffic noise has not been able to be resolved due to the absence of the final design of the Sextons Hill Bypass.

The conditions that have been recommended for the proposed subdivision are considered to protect the general public interest of future residents with the requirement of an acoustic report being imposed prior to issue of a construction certificate for Stage 2. Noise attenuation measures will be identified at this stage for the future dwellings in the subdivision.

The proposed subdivision is not considered to be in conflict with the general public interest.

**OPTIONS:**

1. Approve the proposed subdivision in accordance with the recommended conditions of consent.
2. Refuse the proposed subdivision.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should the applicant be dissatisfied with the determination of the application they have a right for review in the NSW Land and Environment Court.

**POLICY IMPLICATIONS:**

The proposed development does not raise policy implications for Council.



**CONCLUSION:**

In conclusion the proposed subdivision is in accordance with Council's requirements for the subject zone. The subdivision is able to be conditioned to ensure it meets Council's standards.

**UNDER SEPARATE COVER:**

1. Letter from Roads and Traffic Authority dated 1 April 2003.
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**7 [DS] Development Application DA03/1851 for the Construction of a Public Road and Relocation of a Watermain at Lot 490 DP 47021, Lot 500 DP 727420, Lot 312 DP 755701, Tweed Coast Road, Kingscliff**

**ORIGIN:**

**Director**

**FILE NO: DA03/1851 Pt1**

**SUMMARY OF REPORT:**

Council at its meeting of 5 May 2004, resolved as follows: -

*"that the Council accepts, in principle, Development Application DA03/1851 for the permanent realignment of the road through Lot 490 and requests the Director Planning & Environment brings forward to the next meeting conditions of approval for the consideration of Council."*

In accordance with the above resolution the following conditions are recommended.

**RECOMMENDATION:**

That:-

- A. Development Application DA03/1851 for the construction of a public road and relocation of a watermain at Lot 490 DP 47021, Lot 500 DP 727420, Lot 312 DP 755701, Tweed Coast Road Kingscliff be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos DA01, DA02A, DA03, DA04, DA05, DA06 and DA07 prepared by Cardno MBK and dated November 2003, except where varied by these conditions. [GEN0010]
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property. [GEN0030]
3. The works are to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual. [GEN0040]
4. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and required by this consent.

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
  - earthworks
  - roadworks
  - road pavement
  - road furnishings
  - stormwater drainage
  - water supply works
  - landscaping works
  - sedimentation and erosion management plans
  - location of all service conduits (water, sewer, Country Energy and Telstra)
  - the approved Traffic Control Plan

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

5. The existing bicycle path is to be extended from the northern boundary of the SALT site to the existing pavement in Casuarina Way (Old Coast Road). [GEN0140]
6. All necessary approvals from the Department of Lands are to be obtained for the construction of the road. [GENNS01]
7. The proposed road is to be constructed at no cost to Council. [GENNS01]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

8. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times. [PCC0040]
9. **Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the Director, Development Services.

The bond will be refunded, if not expended, when the final Subdivision Certificate is issued.

[PCC0080]

10. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services **PRIOR** to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC0130]

11. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0230]

12. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC0240]

13. Erosion and Sediment Control During the Construction Phase of Development
- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
  - (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- [PCC0320]
14. The engineering plans and specifications to accompany the Construction Certificate application shall provide for: -
- (a) The construction of Casuarina Way within Lot 490 on an alignment generally in accordance with Figure No. DA02 prepared by Cardno MBK (Qld) Pty Ltd and dated November 2003.
  - (b) The construction of a cleared road reserve of 22.0m containing a sealed carriageway of 7.0m, with sealed break down lanes of 2.5m either side. The pavement under the seal break down lane shall be the same thickness as the 7.0m pavement. Consideration should also be given to super elevation between chainages 1800 and 1950 to address safety, comfort and appearance.
  - (c) The construction of a twin 1200x600 RCBC under Casuarina Way at approximately chainage 1650. A second culvert under Casuarina Way shall be provided at approximately chainage 1400. Design details for this culvert shall be provided with the Construction Certificate.
  - (d) The intersection of the proposed road with the existing Casuarina Way (Old Coast Road) is to be designed and constructed in accordance with Austroads Guide to Traffic Engineering Practice Part 5.
15. The existing water main located within the temporary section of Casuarina Way shall be relocated to the north within the Bushfire Management Corridor. Design details for this relocation to be provided with the Construction Certificate.

[PCCNS01]

**PRIOR TO COMMENCEMENT OF WORK**

16. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0030]

17. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Development Services.

The approved haul route for the transportation of filling to the site shall be via Old Bogangar Road and then Casuarina Way.

[PCW0140]

18. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

[PCW0190]

19. Work in accordance with this development consent must not be commenced until:-
- (a) a construction certificate for the subdivision work has been issued by:
    - (i) the consent authority, or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:
    - (i) has appointed a principal certifying authority, and
    - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
  - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

[PCW0020]

20. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

[PCW0090]

21. Where water is required to be drawn from Council's water reticulation system it shall be the applicants responsibility to notify the Engineering Services Division prior to taking water.

All drawn water shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[PCW0260]

22. **Prior** to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-
- a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3<sup>rd</sup> Edition, NSW Government, or
  - b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

[PCW0270]

#### **DURING CONSTRUCTION**

23. No soil, sand, gravel, clay or other material shall be disposed of off the site. [DUR0030]
24. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works. [DUR0040]
25. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction. [DUR0080]
26. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated. [DUR0730]

27. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties. [DUR0850]
28. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution. [DUR0870]
29. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles. [DUR0880]
30. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning. [DUR0890]
31. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays. [DUR0900]



32. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
  - B. Long term period - the duration.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
- [DUR0910]
33. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
- [DUR0980]
34. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.
- [DUR0150]
35. Prior to the application for a **Subdivision Certificate** a Compliance Certificate or Certificates shall be obtained from Council **OR** an accredited certifier for the following:-
- (i) Compliance Certificate - Roads
  - (ii) Compliance Certificate - Water Reticulation
  - (iii) Compliance Certificate - Sewerage Reticulation
  - (iv) Compliance Certificate - Drainage

**Note:**

- 1. Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and good Engineering Practice.
- 2. Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

**Roadworks**

- a. Pre-construction commencement erosion and sedimentation control measures
  - b. Completion of earthworks
  - c. Excavation of subgrade
  - d. Pavement - sub-base
  - e. Pavement - pre kerb
-

- f. Pavement - pre seal
- g. Pathways, footways, bikeways - formwork/reinforcement
- h. Final inspections - on maintenance
- i. Off Maintenance inspection

**Water Reticulation, Sewer Reticulation, Drainage**

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits
- e. Backfilling
- f. Permanent erosion and sedimentation control measures
- g. Drainage channels
- h. Final inspection - on maintenance
- i. Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

- 3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR0360]
- 36. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
  - a. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
  - b. That the pavement materials used comply with the specifications in RTA Form Q3051 (June 1998)
  - c. That the pavement layers have been compacted to RTA specifications.
  - d. That site fill areas have been compacted to the specified standard.
  - e. That supervision of Bulk Earthworks has been to Level 1 and/or Level 2 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
  - f. That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR0370]
- 37. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans **AND** the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.

[DUR0400]
- 38. Pram ramps are to be constructed at road intersections in accordance with Council's Plan No. A4-96 to the satisfaction of the Director of Engineering Services and in accordance with Council's Standard Plan No. A4-96. Mountable or roll top kerb does not meet pram ramp requirements, and therefore requires a pram ramp to be constructed as above.

[DUR0500]

39. The earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction. [DUR0620]
40. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties. [DUR0860]
41. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0920]
42. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services. [DUR0930]

### **USE**

43. Upon completion and prior to use of the proposed road certification shall be provided to Council that the road reserve area has been surveyed for radiation levels and that surface radiation levels do not exceed the relevant NSW Health Action Limit of 2.5uGh/yr.
44. All works shall comply with the Casuarina Way Road Alignment Acid Sulfate Soils Management Plan, Cardno MBK, November 2003.
45. All works shall comply with the Casuarina Way Road Alignment Erosion and Sediment Control Plan, Cardno MBK, November 2003.
46. All works shall comply with the Casuarina Way Road Alignment Water Quality Monitoring Program, Cardno MBK, November 2003. [USENS01]

### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

47. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No. DA03/1851 have been complied with. [PSC0010]
48. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:
- i. Easements for sewer, water supply and drainage over **ALL** services on private property.
- Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.
- Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council. [PSC0020]

49. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. [PSC0040]
50. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Councils Surveyor within two months of the issue of the Subdivision Certificate. [PSC0060]
51. Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.
- (i) The following information must accompany an application:
- original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$122 per lot.
  - relevant development consent
  - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
  - evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
  - a certificate of compliance from the relevant water supply authority (where applicable)
  - for subdivision involving subdivision works evidence that:
    - the work has been completed, or
    - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
    - security given to the consent authority with respect to the completion of the work
  - Work as Executed Plans for **ALL** works
- (ii) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.
- (iii) Written evidence from Council that the proposed road/street names have been approved.

**Note:**

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier. [PSC0090]

52. Prior to the issue of a **Subdivision Certificate** a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued and will be refunded following the remedying of any defects arising within the 6 month period. [PSC0110]

53. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC0170]

54. i. The production of written evidence from Country Energy certifying that reticulation of underground electricity (residential and rural residential) has been completed; and

ii. The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

[PSC0190]

55. Prior to the issue of the Subdivision Certificate the applicant shall dedicate a 22.0m wide road corridor (Casuarina Way) as public road free of cost to Tweed Shire Council.

[PSCNS01]

**S68 STORMWATER (where separate S68 approval is required)**

56. Approved permanent stormwater quality treatment devices in the private drainage system must be regularly cleaned out and maintained in accordance with submitted maintenance schedules and as required to ensure the continued efficient operation of the devices.

[SWD0090]

57. The erosion and sediment control works shall be carried out in accordance with Council's *Code of Practice for soil and water management on construction sites*.

[SWD0120]

B. The Department of Lands be asked to issue a temporary licence over the proposed road alignment.

C. Council commences acquisition and dedication of the alignment to create the permanent road reserve in accordance with the Departments of Lands' requirements.

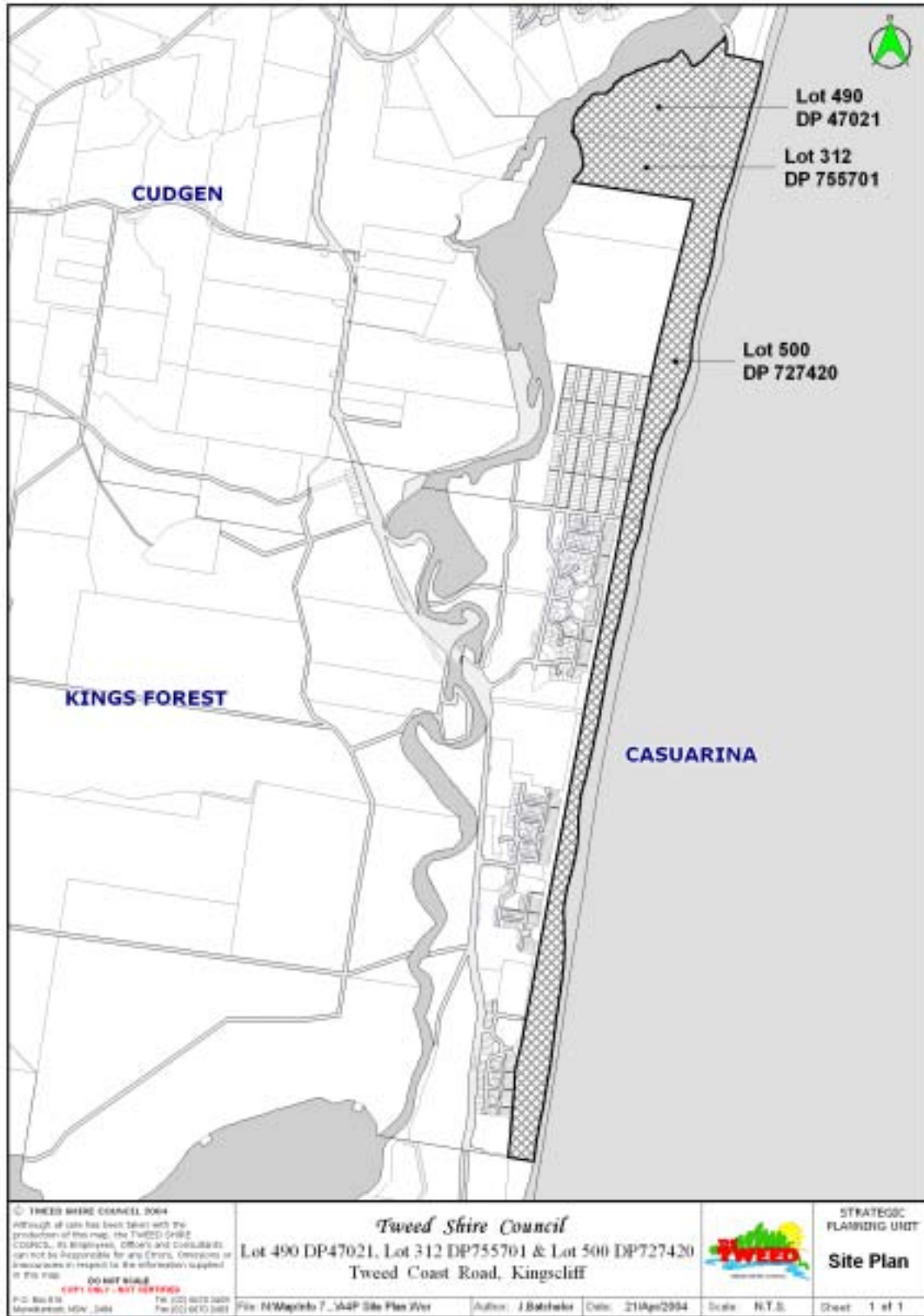
**REPORT:**

**Applicant:** South Kingscliff Developments Pty Ltd  
**Owner:** Conservation & Land Management, South Kingscliff Developments Pty Ltd and Tweed Shire Council  
**Location:** Lot 490 DP 47021, Lot 500 DP 727420 & Lot 312 DP 755701 Tweed Coast Road, Kingscliff  
**Zoning:** 2(f) Tourism, 7(a) Environmental Protection (Wetland and Littoral Rainforest) & 7(f) Environmental Protection (Coastal Lands)  
**Cost:** \$500,000.00

**BACKGROUND:**

As per summary.

**SITE DIAGRAM:**



**OPTIONS:**

1. Approve the application as per the recommendation.
2. Approve the application with alterations to the recommendation.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

This matter is reported to Council in accordance with the Council resolution of 5 May 2004.

**UNDER SEPARATE COVER:**

Nil.

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**8 [DS] Seaside City**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/LEP/2000/3 Pt9**

**SUMMARY OF REPORT:**

Council resolved on 5 May 2004 that: -

*"The Director Planning & Environment prepares a report on the options and estimated timeframe for the development approval under the existing 2(f) zone with amendment and the previously proposed 2(e) zone for the next Council meeting"*

A decision has to be made on the future planning for Seaside City. To provide parameters to the identification of options the following factors are taken as being fixed:

1. The 7(f) Zone Line
2. Re-Subdivision of Seaside City

A number of options have been identified to determine the long term planning for Seaside City together with the timeframe for completion. These include:

- Retain the zoning arrangements as already contained in Tweed LEP 2000 Amendment No 3.
- Complete the LEP Amendment already commenced (estimated 42 weeks).
- Richtech have nominated an Amendment to enable a clause similar to the provisions for SALT, namely:
  - Retain the 2(f) zone.
  - Dwellings be permissible in a nominated part of the subdivision (approx. 50%).
  - A DCP and agreement to secure the necessary servicing (estimated 60 weeks).

Completion of Tweed LEP 2000 Amendment No 3 is preferred.

**RECOMMENDATION:**

That Council completes Draft Tweed Local Environmental Plan 2000, Amendment No 3 to rezone land at Seaside City from 2(f) Tourism to 2(e) Residential Tourist.

## REPORT:

### Introduction

Council resolved on 5 May 2004 that: -

*"The Director Planning & Environment prepares a report on the options and estimated timeframe for the development approval under the existing 2(f) zone with amendment and the previously proposed 2(e) zone for the next Council meeting"*

### Planning Options

In May 2000 Council resolved to prepare a draft LEP to rezone land at Seaside City from 2(f) to 2(e). This amendment (TLEP 2000, Amendment No 3) has stalled following the recommendations of the Bulford Report to dispense with the services of the planning consultants engaged to undertake this amendment.

A decision has to be made on the future planning for Seaside City. To provide parameters to the identification of options the following factors are taken as being fixed:

#### 1. The 7(f) Zone Line

A number of the landowners have highlighted that the findings of the Umwelt and WBM reports which they argue justify moving the 7(f) zone boundary in an ocean direction. The 7(f) zone boundary is part of the Tweed Shire Coastline Management Plan. A final draft of the Plan is currently being finalised following community workshops. It is anticipated the draft Plan will be completed by the end of April 2004.

In the interim the Stage 2 document, Management Objectives, was completed in October 2003 with a Council workshop. The only option indicated in that document for the 7(f) zone was to retain it as contained in TLEP 2000.

The 7(f) zone is an integral part of the Management Plan. Should Council wish to consider any alteration to the 7(f) zone line this must be done as part of the overall Coastal Management Plan. Seaside City should not be dealt with in an ad hoc manner. Therefore, if Council is mindful to meet the expectations of landowners any amendment to 7(f) must be deferred until the Coastal Management plan has been completed. This was accepted by landowners at the meeting held on 16 January 2004.

#### 2. Re-Subdivision of Seaside City

The landowners meeting agreed that Council would prepare a plan of re-subdivision by the removal of two laneways to provide all landowners with about 450m<sup>2</sup> of developable land west of the 7(f) boundary.

Whilst in principle this process is attractive, without the agreement of all landowners, it is impossible for Council to achieve. There are taxation issues, for example, which are beyond Council's control.

The options open to Council may be summarised as follows:

1. Retain the zoning arrangements as already contained in TLEP 2000.
2. Complete the LEP Amendment already commenced.
3. Provide for the erection of a dwelling on each individual allotment, in accordance with the expectations of the smaller landowners.
4. Richtech have nominated an Amendment to enable a clause similar to the provisions for SALT, namely:
  - Retain the 2(f) zone.
  - Dwellings be permissible in a nominated part of the subdivision (approx. 50%).
  - A DCP and agreement to secure the necessary servicing.
5. To amend the zoning of Seaside City in accordance with Options above in advance of dealing with the 7(f) zone line would raise the expectations of landowners, at least in the lots at the southern end of Lorna Street which could not realistically be met. A further option would be to exclude from any LEP amendment those lots along Lorna Street that have an area of less than 450m<sup>2</sup> zoned for development. This is the minimum area required by TLEP 2000 for the erection of a dwelling. The rezoning of the identified lots could be considered as part of any reconsideration of the 7(f) zone line.

## Estimated Time Frame

The following estimates are offered for the nominated options:

### 1. Complete TLEP Amendment No 3

- |   |              |
|---|--------------|
| • Prepare Consultants Brief in conjunction with DIPNR to review and complete the work commenced by previous consultants, invite tenders and engage preferred consultant | 12 weeks     |
| • Consultants prepare Environmental Study and draft LEP for exhibition  | 8 weeks (?)  |
| • Exhibition  | 4 weeks      |
| • Review submissions, report to Council   | 6 weeks      |
| • Submit to Minister for gazettal   | 12 weeks (?) |
| • Total   | 42 weeks     |

## 2. Commencement of New LEP Amendment

The other options require the commencement of a fresh LEP Amendment, entailing a longer timeframe than option 1. This is estimated as follows:

- Council S54 resolution to prepare a draft LEP Amendment.
- Notification to DIPNR, await decisions whether mandatory Environmental Study required or not 6 weeks (?)
- Mandatory S62 notification of Government Agencies of Council decision and receipt of matters to be included in the preparation of the Amendment 4 weeks
- Preparation of Consultants Brief to prepare the Environmental Study (if not waived by DIPNR) and engage consultants 12 weeks
- Consultants prepare Environmental Study and draft LEP for exhibition 16 weeks (?)
- Exhibition 4 weeks
- Review submissions, report to Council 6 weeks (?)
- Submit to Minister for gazettal 12 weeks (?)
- Total 60 weeks

Whichever of the options is pursued by Council it will also be necessary to identify the necessary funds to undertake the work. The Strategic Planning Budget includes an allocation of \$20,000 which is not considered to be sufficient to cover costs. The Council must first determine if it is to cover all of these costs or require a contribution from benefiting parties, namely tenderers.

Given the history of Seaside City and the large number of landowners it is suggested that in principle Council agrees to bear the full costs, a final decision to be made following receipt of consultants quotes.

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

\$20,000 in Strategic Planning budget to complete rezoning for Seaside City (which is anticipated to be insufficient).

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## **9 [DS] Bushfire Prone Area Map**

### **ORIGIN:**

**Strategic Town Planning**

### **SUMMARY OF REPORT:**

Council, at its meeting of 17 December 2003, resolved to endorse a Shirewide 'Bushfire Prone Area' map prepared for Council by Ecograph and to forward the map to the Commissioner of the NSW Rural Fire Service. Council resolved to request the Commissioner to certify the map in accordance with Clause 146(2) of the Environmental Planning and Assessment Act 1979.

The Commissioner certified an amended Bushfire Prone Map on 22 March 2004. The map was amended at the request of the Service to comply with the Service's mapping protocols relating to the map legend and bushfire prone buffers in waterways. The certified map is attached with this report (A3 size). The map replaces the interim map derived from an outdated bushfire hazard map in the Bushfire Risk Management Plan (January 2002).

### **RECOMMENDATION:**

That this report be received and noted.

## **REPORT:**

Council, at its meeting of 17 December 2003, resolved to endorse a Shirewide 'Bushfire Prone Area' map prepared for Council by Ecograph and to forward the map to the Commissioner of the NSW Rural Fire Service. Council resolved to request the Commissioner to certify the map in accordance with Clause 146(2) of the Environmental Planning and Assessment Act 1979.

The Commissioner certified an amended Bushfire Prone Map on 22 March 2004. The map was amended at the request of the Service to comply with the Service's mapping protocols relating to the map legend and bushfire prone buffers in waterways. The certified map is attached with this report (A3 size). The map replaces the interim map derived from an outdated bushfire hazard map in the Bushfire Risk Management Plan (January 2002).

## **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The certification of the map satisfies Council's requirements under Clause 146 of the Environmental Planning and Assessment Act 1979.

Bushfire Prone Land Maps have significant implications for Council's landuse planning. Where development is proposed on bushfire prone land, Section 79BA of the EP&A Act requires the consent authority (Council) to consult with the NSW Rural Fire Service Commissioner or be satisfied that the development complies with *Planning for Bushfire Protection 2001* produced by the NSW Rural Fire Service. Bushfire prone land is also required to be identified on Section 149 Planning Certificates under the EP&A Act.

Certain types of proposals on bushfire prone land will also trigger integrated development provisions under Section 91 of the EP&A Act.

Section 117 Direction No G20 (EP&A Act) by the Minister requires Council to consult with the Commissioner of the NSW Rural Fire Service and have regard to *Planning for Bushfire Protection 2001* when preparing a draft Local Environmental Plan for land that is identified as bushfire prone on a bushfire prone land map.

## **POLICY IMPLICATIONS:**

See above.

## **UNDER SEPARATE COVER:**

1. Bushfire Prone Area Map.
-



## REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER

### 10 [OGM] Lease of Council Premises - Lot 1 DP 381677 & Lot 1 DP 395275, Bray Park, Murwillumbah

#### ORIGIN:

Administration Services

#### SUMMARY OF REPORT:

Council currently has a lease with the Wollumbin Community Development Association Incorporated over Lot 1 DP 381677 and Lot 1 DP 395275, Bray Park, Murwillumbah.

It is requested that Council now surrender the lease to the Wollumbin Community Development Association Incorporated, which ceased operating around 1997 and enter into a lease with Tweed Training and Enterprise Company Limited, on the same terms and conditions for a period of five (5) years.

#### RECOMMENDATION:

That:

1. Council surrenders the lease to the Wollumbin Community Development Association Incorporated and enters into a lease with Tweed Training and Enterprise Company Limited over Lot 1 DP 381677 and Lot 1 DP 395275, Bray Park, Murwillumbah for a period of five (5) years on the same terms and conditions.
2. All necessary documentation to be completed under the Common Seal of Council.

**REPORT:**

Council currently has a lease with the Wollumbin Community Development Association Incorporated over Lot 1 DP 381677 and Lot 1 DP 395275, Bray Park, Murwillumbah.

It is requested that Council now surrender the lease to the Wollumbin Community Development Association Incorporated, which ceased operating around 1997 and enter into a lease with Tweed Training and Enterprise Company Limited, on the same terms and conditions for a period of five (5) years.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**11 [OGM] Mayor and Councillors Annual Remuneration 2004/2005**

**ORIGIN:**

**Administration Services**

**SUMMARY OF REPORT:**

The Local Government Remuneration Tribunal has handed down its report and determination on the fees paid to Mayors and Councillors for the period 2004/2005

**RECOMMENDATION:**

That Council determines:

1. The annual fee for the Mayor for the period 1 July 2004 to 30 June 2005.
2. The annual fee for Councillors for the period 1 July 2004 to 30 June 2005.

**REPORT:**

The determination of the Local Government Remuneration Tribunal has been received. The Tribunal has awarded an increase in fees for Mayors and Councillors, the quantum of the increases was influenced by movements in national economic indicators, in addition to changes in duties and responsibilities in determining the recompense.

The Tribunal increased all minimum and maximum fees for Mayors and Councillors by 3%.

Tweed Shire Council is classified as a Category 3 Council.

Tweed Shire Council did previously seek re-categorisation to Category 1. Council submitted that it is a high growth multi-purpose council, however the Tribunal has not had the opportunity to discuss the issues raised by this Council in its submission, but plans to do so in the inquiry into the proposed new category for leading Category 3 Councils.

The new annual fees are as follows:-

<b>Councillor/Member Annual Fee</b>		<b>Major/Chairperson Additional Fee *</b>	
Minimum	Maximum	Minimum	Maximum
\$5,875	\$12,925	\$12,490	\$28,215

\* This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s249(2)).

The current fee paid to the Mayor is \$39,945 and to Councillors is \$12,550.

Council is to determine and fix the annual fee in accordance with Sections 248 and 249 of the Local Government Act, application on and from 1 July 2004.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

2004/2005 Budget - Mayoral Allowance and Members Fees.  
Local Government Act - Sections 248 and 249.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**12 [OGM] Quarterly Budget Review - 31 March 2004**

**ORIGIN:**

**Financial Services**

**SUMMARY OF REPORT:**

This is the third quarter statutory budget review for this financial year and summarises the major expenditure and income changes to the 2003/04 Budget based on current projects to 30 June 2004. This statutory report is prepared in accordance with Local Government Financial Management Regulations Section 6 and 7. Council will have a balanced budget in the General, Water and Sewer Funds in accordance with the original budget expectations.

**RECOMMENDATION:**

That:-

1. The Quarterly Budget Review Statement as at 31 March 2004 be adopted.
2. The expenditure and income, as detailed within the body of the report, be voted and adjusted in accordance with the revised total expenditure and income for the year.

	<b>POSITIVE (Contribute to Surplus) \$</b>	<b>NEGATIVE (Contribute to Deficit) \$</b>
1. Recreation		63,793
2. Health & Community Services	109,519	
3. Economic Development	47,037	
4. Natural & Built Environment	694,575	
5. Roads & Transport	210,000	
6. Infrastructure Planning		26,000
7. Corporate Governance	801,035	
8. General Fund Reserves-Cary Over of Works to 04/05		1,772,373
	<b>\$1,862,166</b>	<b>\$1,862,166</b>

### Water Fund

1. Water Corporate	95,000	
2. Dams & Weirs	83,500	
3. Reservoirs	37,000	
4. Water Mains	107,540	
5. Water Treatment	208,000	
6. Consumer Services	7,460	
7. Management	60,300	
8. Capital Works/Reserves		598,800
	<b>\$598,800</b>	<b>\$598,800</b>

### Sewerage Fund

1. Sewer Corporate	651,604	
2. Sewer Mains		1,500
3. Sewer Pumping Stations	60,000	
4. Sewer Treatment Plants		167,000
5. Management	242,700	
6. Capital Works/Reserves		785,804
	<b>\$954,304</b>	<b>\$954,304</b>



**REPORT:**

**Budget Review 31 March 2004 (Quarterly Budget Review)**

The following Financial Statement is submitted in accordance with the Local Government Act 1993 – Financial Management Regulations Sections 6 and 7 and shows details of Council's financial position for the period ending 31 March 2004 and estimated end of year financial position as at 30 June 2004.

This statutory Budget Review is prepared at the close of each quarter and shows the financial result between budgeted income and expenditure adopted by Council and the revised total expenditure and total income on present trends for the year.

<b>GENERAL FUND</b>		<b>POSITIVE (Contribute to Surplus)</b>	<b>NEGATIVE (Contribute to Deficit)</b>
<b><u>Recreation</u></b>			
1.	Bilambil Sportsfield Caretaker	No Caretaker appointed - Refurbishment of Bilambil Sportsclub	5,000
2.	Electric Barbecues	Reflects actual costs	32,000
3.	Parks rates	Reflects actual costs	8,502
4.	Fire hazard reduction	Funds required to clear firebreak, Elfran Ave Pottsville.	5,000
5.	Krekelberg Environment park	Carry Over of works to 04/05	7,000
6.	Pottsville Environmental Park	Carry Over of works to 04/05	30,000
7.	Pt Danger Lighthouse	Maintenance of stairs - in conjunction with GCCC	11,000
8.	Fingal Boardwalk	Carry Over of works to 04/05	20,709
9.	Budd Park Pond Refurbish	Pond requires significant refurbishment works	25,000
10.	Traffic and access management Oxley Cove	Ongoing issue. Works to include sealing of dirt access tracks.	35,000
<b><u>Health &amp; Community Services</u></b>			
11.	SES Building Improvements	Carry Over of works to 04/05	160,000
12.	SES Building Improvements - Loan Funds	Carry Over of Loan Funds	160,000
13.	Grants to SLSC	Increase in expenditure	6,600
14.	Pandanus Parade Development	Demolition & temporary accommodation of Cabarita SLSC	15,748
15.	Legal Expenses – TRAGF	Legal Expenses – TRAGF	56,439
16.	Reimbursement Legal Expenses - TRAGF	Re-imbusement of Legal Expenses – TRAGF	118,256
17.	Art Gallery Expenses	Reduction in operating expenses	6,050
18.	Library Subsidies	Increase in grant received	29,705
19.	Library Capital Expenses	Grant funds to be expended	29,705
20.	Australia Day Celebrations	Increase in expenditure	8,700
21.	Anti Drug Campaign	Carry Over of savings to 04/05	45,300
22.	Tweed Valley Respite Centre	Carry Over of works to 04/05	495,000
23.	Tweed Valley Respite Centre	Carry Over of Loan Funds	495,000
24.	Animal Control Expenses	Increased costs	17,600
25.	Animal Control Income	Increase in fees income	36,000
26.	M'Bah Swimming Pool	Increased maintenance costs	20,000
27.	Kingscliff Swimming Pool	Increased maintenance costs	10,000
28.	M'Bah Swimming Pool - Income	Increase in patronage	10,000
29.	Rangers Miscellaneous	Increased employment costs	6,000
30.	Parking Infringements	Increase in fines income	35,000
<b><u>Economic Development</u></b>			
31.	Direction & Tourist Signage	Additional signage undertaken throughout Shire	21,000
32.	Village Projects	Carry Over of works to 04/05. Projects not completed in 03/04	68,037
<b><u>Natural &amp; Built Environment</u></b>			
33.	Hot Spots Program	New Grant – expenditure	165,670
34.	Hot Spots Program – Grant	New Grant – income	165,670
35.	New Boat Ramps	New works–Chinderah/Dry Dock	45,616
36.	Coastal Management	Increased works	27,000

GENERAL FUND			POSITIVE (Contribute to Surplus)	NEGATIVE (Contribute to Deficit)
37.	Planning Waterways Asset Management	Increased works		19,867
38.	Coastal Management Planning - Reserve	Reserve funding	27,000	
39.	Waterways Asset Management - Reserve	Reserve funding	19,867	
40.	Development Assessment Expenses	Adjust to actual cost		11,000
41.	Development Assessment Income	Increased Income	85,000	
42.	Strategic Planning Salaries	Salary savings	188,241	
43.	Strategic Planning Advertising	Duplicate line item	5,000	
44.	Local Environment Plan Review	Reduced work	27,000	
45.	Area E Rezoning	Funds collected in 02/03		47,500
46.	Tweed Shire 2000+ Strategic Plan	Carry Over of works to 04/05 - \$44,000	194,450	
47.	Koala Management Plan	Carry Over of works to 04/05	10,000	
48.	Seaside City Draft LES/LEP	Carry Over of works to 04/05	20,000	
49.	Local Area Plans	Carry Over of works to 04/05	50,000	
50.	Rural Strategy	Carry Over of works to 04/05	80,000	
51.	Heritage Projects	New initiative for Heritage Consultant		30,000
52.	Heritage Projects - Grant Funds	New grant funds	15,000	
53.	Building Control Expenses	Adjust to actual cost	54,000	
54.	Building Control Income	Increased Income	100,000	
<b><u>Roads &amp; Transport</u></b>				
55.	Depot/Workshop Expenses	On-cost result - Carry Over of works to 04/05	250,000	
56.	Storekeeping	New trainee		40,000
<b><u>Infrastructure Planning</u></b>				
57.	s68/s138 Fees	Expenditure not in original budget		50,000
58.	Salaries Section 94	Increased Section 94 Contributions	24,000	
<b><u>Corporate Governance</u></b>				
59.	Election Costs	LGSA advice of increased costs + referendum		45,000
60.	Donations/Civic Business	Art Gallery Opening and other ceremonies and International Festivals and Events Conference		36,500
61.	Shire Newsletter	Decreased costs	16,000	
62.	Annual Report	Carry Over of works to 04/05 - \$15,000	30,000	
63.	Community Survey	Committed in 04/05 Budget	70,000	
64.	Business Systems	Carry Over of works to 04/05	190,000	
65.	Business Systems Loans	Carry Over of Loan Funds		190,000
66.	Information Technology Expenses	Actual costs	37,800	
67.	Information Technology Income	Reduced sales		29,000
68.	GIS Software	Carry Over of works to 04/05	242,000	

<b>GENERAL FUND</b>			<b>POSITIVE (Contribute to Surplus)</b>	<b>NEGATIVE (Contribute to Deficit)</b>
69.	Asset Database Software	Carry Over of works to 04/05	80,000	
70.	Records/Storage Disposal	Carry Over of works to 04/05	150,000	
71.	Interest on Investments	Increased returns on investment income	73,000	
72.	Financial Services Advertising	Increased advertising costs		8,500
73.	General Fund Reserve Funding	Carry Over of works to 04/05		1,772,373
74.	General Fund Loan Repayments	Savings on principal & interest payments	182,000	
75.	Employment Subsidy	Additional grant received	6,100	
76.	Payroll Tax	Adjust to actual cost		4,300
77.	Public Liability	Increased Claims		51,270
78.	Internal Charges	Contribution from Water/Sewer for Public Liability Insurance	53,705	
79.	Risk Management Signage	Carry Over of works to 04/05	50,000	
80.	Human Resources Salaries	Increase in Clerical Support hours		5,000
81.	Corporate - Printing/ Stationery/Equipment	Adjust to actual cost		10,000
<b>WATER FUND</b>				
82.	Water Corporate Services		95,000	
83.	Dams & Weirs		83,500	
84.	Reservoirs		37,000	
85.	Water Mains		107,540	
86.	Water Treatment		208,000	
87.	Water Consumer Services		7,460	
88.	Water Fund Management		60,300	
89.	Water Capital Works & Reserve Funding			598,800
<b>SEWER FUND</b>				
90.	Sewer Corporate Services		651,604	
91.	Sewer Mains			1,500
92.	Sewer Pumping Stations		60,000	
93.	Sewer Treatment Plants			167,000
94.	Sewer Fund Management		242,700	
95.	Sewer Capital Works & Reserve Funding			785,804

### ***Other Issues***

In both 2002 and 2003, Council established loans of \$250,000 each for the Cabarita SLSC building. At the time DCP 16 (Surf lifesaving) had insufficient funds to meet the funding request of \$500,000. Due to the length of time taken to commence construction of the building, Council now has \$500,000 in unexpended loans and \$504,000 in DCP 16. The March 2004 Budget Review proposes to use the unexpended loans of \$500,000 to fund the Works Depot and SES Depot relocation in the 2004/05 budget.

### **General Fund**

Based on current projection the General Fund is expected to remain as a “balanced budget” for the remaining 3 months of the financial year. Furthermore, any approval for funding of additional programs must be offset by a reduction in alternative program.

### **Water Fund**

The Water Fund remains in a sound financial position with sufficient reserves to meet any unexpected costs.

### **Sewer Fund**

The Sewer Fund remains in a sound financial position with sufficient reserves to meet any unexpected costs.

**Statutory Statement – Local Government Financial Regulations  
(Sections 6 & 7) by “Responsible Accounting Officer”**

The responsible accounting officer of a council must: -

6. (b) *If any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.*

7. (1) *Not later than 2 months after the end of each quarter, the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the management plan that the council has adopted for the relevant year, a revised estimate of the income and expenditure for that year.*

(2) *A budget review statement must include or be accompanied by:*

(a) *a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*

(b) *if that position is unsatisfactory, recommendations for remedial action.*

**Statutory Statement**

**I consider that the financial position of Council is satisfactory “having regard to the original estimate of income and expenditure”.**



M A Chorlton  
“Responsible Accounting Officer”  
Chief Financial Officer  
Tweed Shire Council

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

As discussed in the report.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

**13 [OGM] Northern Rivers Organisation of Councils - Minutes of Ordinary Meeting and Workshop held on 30 April 2004**

**ORIGIN:**

**General Manager**

**SUMMARY OF REPORT:**

The Northern Rivers Organisation of Councils (NOROC) Ordinary Meeting and Workshop held on 30 April 2004 also undertook a review of NOROC's role, objectives, operation and resourcing.

The detail of proposed changes to the constitution and the mode of operation are attached to this report.

The mode of operation for "operational matters" aligns with that, which has been operating successful via the General Managers' Group (extended to include the newly constituted Clarence Valley Council).

The proposals dovetail the strategic activities of NOROC (regional focus, representation and advocacy) with the operational activities of the General Managers' Group and it is felt that this will prove to be effective for regional issues.

**RECOMMENDATION:**

That Council endorses:

1. The Mayor and General Manager as delegates to Northern Rivers Organisation of Councils.
2. The proposed constitutional changes for the consideration at the Extraordinary Meeting of the Northern Rivers Organisation of Councils Extraordinary Meeting to be held on 18 June 2004.

**REPORT:**

The Northern Rivers Organisation of Councils (NOROC) Ordinary Meeting and Workshop held on 30 April 2004 also undertook a review of NOROC's role, objectives, operation and resourcing.

The mode of operation for "operational matters" aligns with that, which has been operating successful via the General Managers' Group (extended to include the newly constituted Clarence Valley Council).

The proposals dovetail the strategic activities of NOROC (regional focus, representation and advocacy) with the operational activities of the General Managers' Group and it is felt that this will prove to be effective for regional issues.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

1. Minutes of the Ordinary meeting of NOROC held 30 April 2004; the proposed changes to the Constitution and notes on the Outcomes of the Workshop held 30 April 2004. (DW 1036841)
-



**14 [OGM] 2004 Union Picnic Day**

**ORIGIN:**

**Human Resources Operations**

**SUMMARY OF REPORT:**

Council has received a request from the United Services Union for the Union Picnic Day to be held on Friday 12 November 2004.

**RECOMMENDATION:**

That :-

1. Council endorses Union Picnic Day to be held on Friday 12 November 2004.
2. Council offices remain open and staffed where practical with "non-union" staff members on that day.

**REPORT:**

Representatives from the United Services Union (USU) have requested that Council endorse Friday 12 November 2004 as a paid Union Picnic Day.

As in past years, if an employee's rostered day off (RDO) falls on that day then arrangements will be made to take the RDO at a later date.

As per the NSW Local Government (State) Award Adjustment, 2002 only financial union members are eligible. Managers will be notified by the Human Resources Operations Unit of their staff's eligibility.

It is recommended that the Council offices at Murwillumbah and Tweed Heads remain open for normal services and be staffed, where practical, with "non-union" officers.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**15 [OGM] Quarterly Motor Vehicle Accident Report for Period 1 January 2004 to 31 March 2004**

**ORIGIN:**

**Administration Services**

**FILE NO: GI1/4 Pt9**

**SUMMARY OF REPORT:**

Following is a summary relating to accidents in which Council vehicles sustained damage during the three (3) month period to 31 March 2004.

**RECOMMENDATION:**

That this report be received and noted.

**REPORT:**

Thirteen (13) incidents occurred involving Council vehicles during the period.

Of these there were nine (9) instances where a Council vehicle was hit by a thrown object or stone, two (2) where a Council vehicle was hit by another vehicle and one (1) where a Council vehicle caused damage to a stationery vehicle.

The total cost of repairs to Council vehicles was \$4,068,25.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

All payments were under Council's excess therefore expenditure was charged back to the Plant Number.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**16 [OGM] In Kind and Real Donations - January to March 2004**

**ORIGIN:**

**Financial Services**

**SUMMARY OF REPORT:**

The following report details "In Kind" and "Real" donations for the period January to March 2004.

**RECOMMENDATION:**

That this report be received and noted.

**REPORT:**

The following report details "In Kind" and "Real" donations for the period January to March 2004.

**Financial Assistance**

<b>Amount</b>	<b>Recipient</b>	<b>Donated Item</b>	<b>Date</b>
\$ 40.00	Murwillumbah Branch RSL	Book Voucher - Anzac Day Presentation	30-Mar-04
\$ 300.00	Murwillumbah Community Support Centre Inc	Donation for Harmony Day	26-Feb-04
\$ 1,500.00	Twin Towns Friends Assoc	2nd Round Donation - Seniors Concert	26-Mar-04
\$ 1,750.00	Twin Towns Family History Group	2nd Round Donation Purchase Microfilm	26-Mar-04
\$ 1,500.00	Tweed River Historical Society	Insurance/Printing Book	26-Mar-04
\$ 2,000.00	Netball Association Queensland	2nd Round Donation - Four 'N' Twenty Origin Shield	26-Mar-04
\$ 1,500.00	Cooloon Children's Centre	2nd Round Donation - Kids Festival	26-Mar-04
\$ 16,900.00	Tweed District Rescue Squad	New Squad Vehicle	2-Jan-04
\$ 2,100.00	Tweed Shire Senior Citizens	Seniors Week	29-Jan-04
\$ 2,500.00	CWA of NSW	2nd Round Donation - Craft Expo	26-Mar-04
\$ 4,500.00	Kingscliff & Tweed Coast Business Assoc	2nd Round Donation - Beachside Festival	26-Mar-04
\$ 4,500.00	Speed on Tweed	2nd Round Donation - Speed on Tweed Event	26-Mar-04
\$ 2,000.00	Tweed Byron Local Aboriginal Land Council	2nd Round Donation - NAIDOC Week	26-Mar-04
\$ 500.00	Tweed Coolangatta Chess Club	2nd Round Donation - Chess Tournament	26-Mar-04
\$ 4,000.00	Tyalgum Festival Committee Inc	2nd Round Donation - Tyalgum Festival	26-Mar-04
\$ 2,500.00	Wollumbin Dreaming Inc	2nd Round Donation - Wollumbin Festival	26-Mar-04
\$ 250.00	Murwillumbah Saints Soccer Club	Contributions For Hot Water System	31-Mar-04
<b>\$ 48,340.00</b>			

**Goods and/or Materials**

<b>Amount</b>	<b>Recipient</b>	<b>Donated Item</b>	<b>Date</b>
\$ 428.50	Murwillumbah Primary School	Repair Gutter Damaged by Life Education Van	16-Dec-03
\$ 24.00	Chillingham Public Hall Committee	Shrubs	15-Jan-04
\$ 40.00	Sathya Sai School Murwillumbah	Shrubs	22-Jan-04
\$ 80.00	Murwillumbah High School	Shrubs	03-Mar-04
\$ 940.00	Respite Home Byangum Road	Shrubs	05-Mar-04
\$ 40.00	Murwillumbah East Primary School	Shrubs	11-Mar-04
<b>\$ 1,552.50</b>			

**Provision of Labour and/or Plant & Equipment**

Amount	Recipient	Donated Item	Date
\$ 2,438.00	Life Education Van	Moving Van	Jan to March
\$ 74.92	Twin Towns Club - Barrier Boards	Provision of Labour & Council Plant	03-Mar-04
<b>\$ 2,512.92</b>			

**Administration**

Amount	Recipient	Donated Item	Date
\$ 288.00	Tweed Palliative Care	Photocopying 200 copies, 4 page, double sided	
<b>\$ 288.00</b>			

**Tweed Link Advertising**

Amount	Recipient	Donated Item	Date
\$ 189.00	Various Community Notices	Advertising	28/01/2004
\$ 81.00	Various Community Notices	Advertising	03/02/2004
\$ 81.00	Various Community Notices	Advertising	10/02/2004
\$ 81.00	Various Community Notices	Advertising	17/02/2004
\$ 148.50	Various Community Notices	Advertising	24/02/2004
\$ 81.00	Various Community Notices	Advertising	02/03/2004
\$ 94.50	Various Community Notices	Advertising	09/03/2004
\$ 162.00	Various Community Notices	Advertising	30/03/2004
<b>\$ 918.00</b>			

**Room Hire**

Amount	Recipient	Donated Item	Date
\$ 58.00	Tweed Heads District Hospital	Room Hire - Tweed Heads Meeting Room	05/01/2004
\$ 58.00	Tweed Heads District Hospital	Room Hire - Tweed Heads Meeting Room	02/02/2004
\$ 29.00	Twin Towns Ladies Auxiliary	Room Hire - Tweed Heads Meeting Room	11/02/2004
\$ 58.00	Tweed Shire City of Arts Community Stories Project	Room Hire - Tweed Heads Meeting Room	24/02/2004
\$ 58.00	Tweed Heads District Hospital	Room Hire - Tweed Heads Meeting Room	01/03/2004
\$ 58.00	Community Drug Action Team	Room Hire - Tweed Heads Meeting Room	08/03/2004
\$ 181.00	Science Arts Part of City of Arts Programme	Room Hire - Murwillumbah Civic Centre	30/01/2004
\$ 89.00	Murwillumbah Theatre Company	Room Hire - Murwillumbah Civic Centre	03/02/2004
\$ 53.40	Murwillumbah Theatre Company	Room Hire - Murwillumbah Civic Centre	05/02/2004
\$ 53.40	Murwillumbah Theatre Company	Room Hire - Murwillumbah Civic Centre	10/02/2004
\$ 53.40	Murwillumbah Theatre Company	Room Hire - Murwillumbah Civic Centre	12/02/2004
\$ 53.40	Murwillumbah Theatre Company	Room Hire - Murwillumbah Civic Centre	16/02/2004
\$ 53.40	Murwillumbah Theatre Company	Room Hire - Murwillumbah Civic Centre	19/02/2004
\$ 53.40	Murwillumbah Theatre Company	Room Hire - Murwillumbah Civic Centre	26/02/2004
\$ 37.00	Twin Towns Garden Club	Room Hire - Tweed Heads Civic Centre	12/01/2004
\$ 53.40	Northern Rivers Symphony	Room Hire - Tweed Heads Civic Centre	21/01/2004

\$	53.40	Orchestra Northern Rivers Symphony	Room Hire - Tweed Heads Civic Centre	28/01/2004
\$	53.40	Orchestra Northern Rivers Symphony	Room Hire - Tweed Heads Civic Centre	04/02/2004
\$	37.00	Twin Towns Garden Club	Room Hire - Tweed Heads Civic Centre	09/02/2004
\$	53.40	Orchestra Northern Rivers Symphony	Room Hire - Tweed Heads Civic Centre	11/02/2004
\$	53.40	Orchestra Northern Rivers Symphony	Room Hire - Tweed Heads Civic Centre	18/02/2004
\$	53.40	Orchestra Northern Rivers Symphony	Room Hire - Tweed Heads Civic Centre	25/02/2004
\$	53.40	Orchestra Northern Rivers Symphony	Room Hire - Tweed Heads Civic Centre	03/03/2004
\$	37.00	Twin Towns Garden Club	Room Hire - Tweed Heads Civic Centre	08/03/2004
\$	29.00	Twin Towns Ladies Auxiliary	Room Hire - Tweed Heads Civic Centre	10/03/2004
\$	53.40	Orchestra Northern Rivers Symphony	Room Hire - Tweed Heads Civic Centre	10/03/2004
\$	53.40	Orchestra Northern Rivers Symphony	Room Hire - Tweed Heads Civic Centre	17/03/2004
\$	53.40	Orchestra Northern Rivers Symphony	Room Hire - Tweed Heads Civic Centre	31/03/2004
\$	24.50	Blind & Visually Impaired	Room Hire - South Tweed HACC	21/01/2004
\$	24.50	Twin Towns Friends Assoc	Room Hire - South Tweed HACC	11/02/2004
\$	24.50	Blind & Visually Impaired	Room Hire - South Tweed HACC	18/02/2004
\$	24.50	Twin Towns Friends Assoc	Room Hire - South Tweed HACC	10/03/2004
<b>\$</b>	<b>1,681.40</b>			

**\$ 55,292.82** Total Donations 3rd Quarter

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.



**17 [OGM] Monthly Investment Report for Period Ending 30 April 2004**

**ORIGIN:**

**Financial Services**

**SUMMARY OF REPORT:**

This report is provided to Council to advise details of monies Council has invested in accordance with Section 625 of the Local Government Act 1993.

**RECOMMENDATION:**

That this report be received and noted.

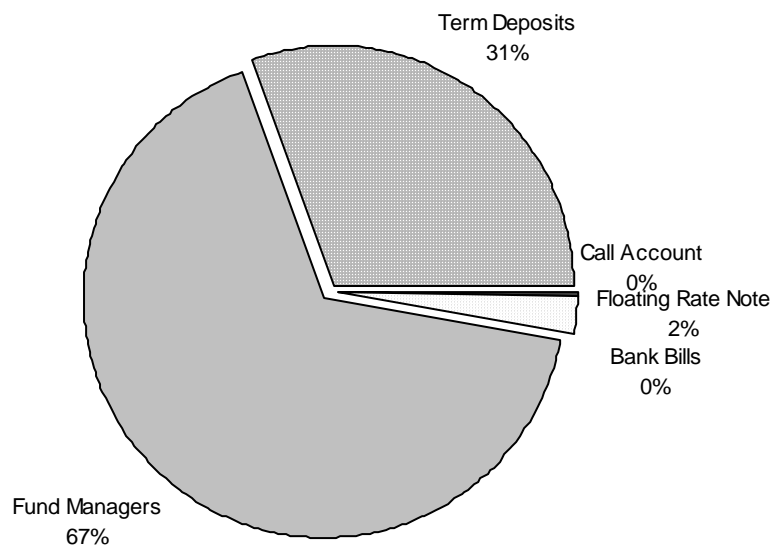
**REPORT:**

**Report for Period Ending 30 April 2004**

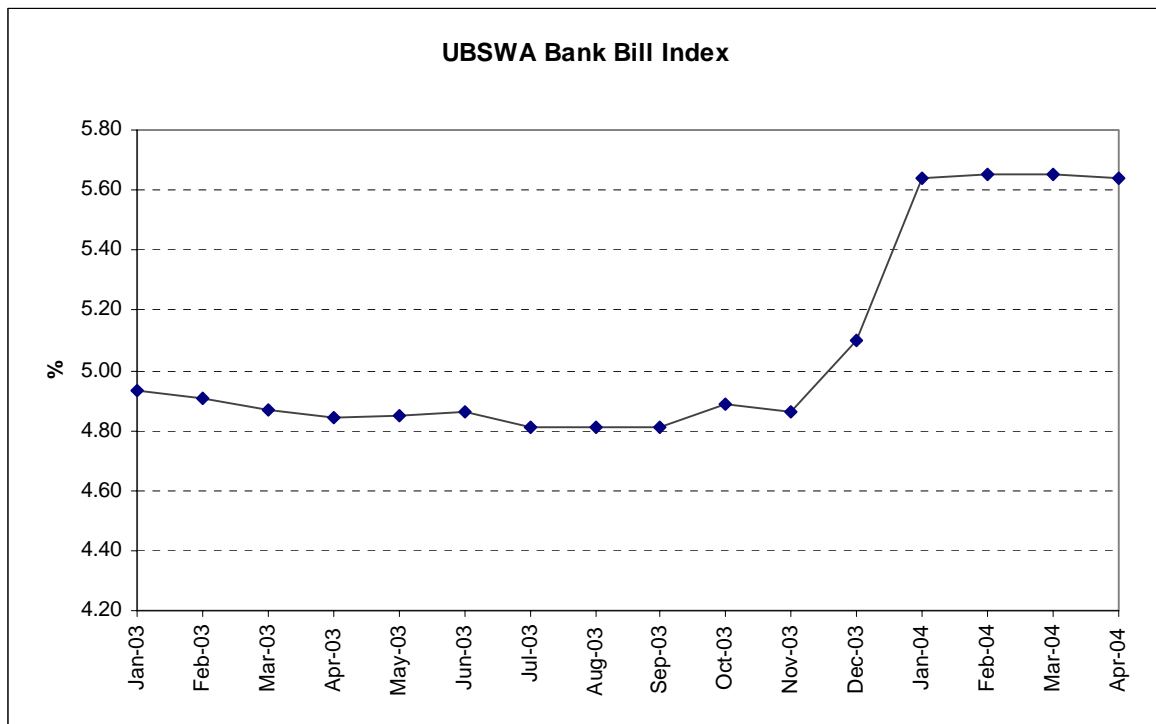
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with the Local Government Act (1993), the Regulations and Council policies.

**1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY**

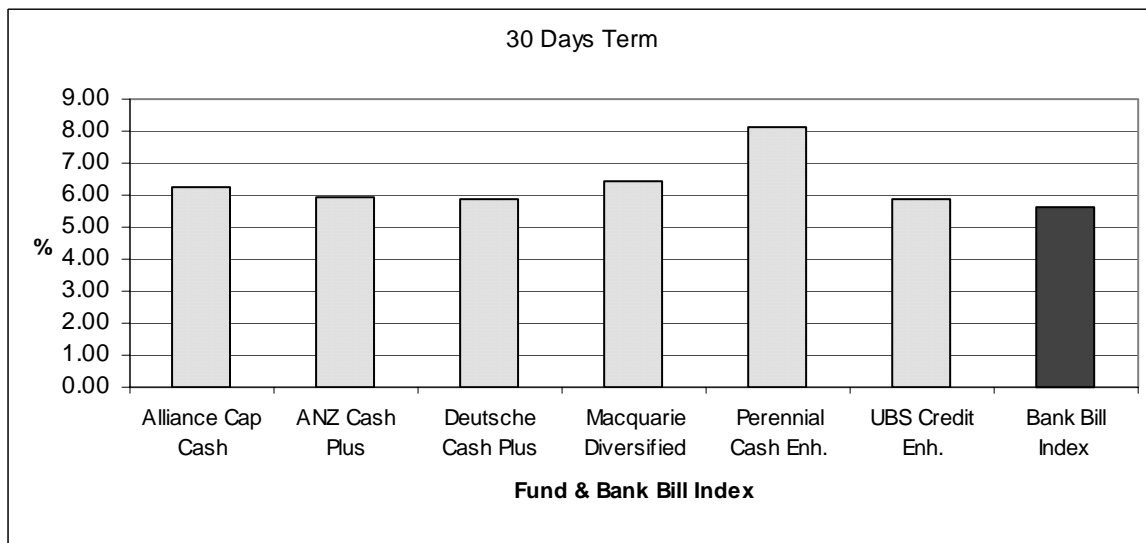
**% of Funds Invested by Category**



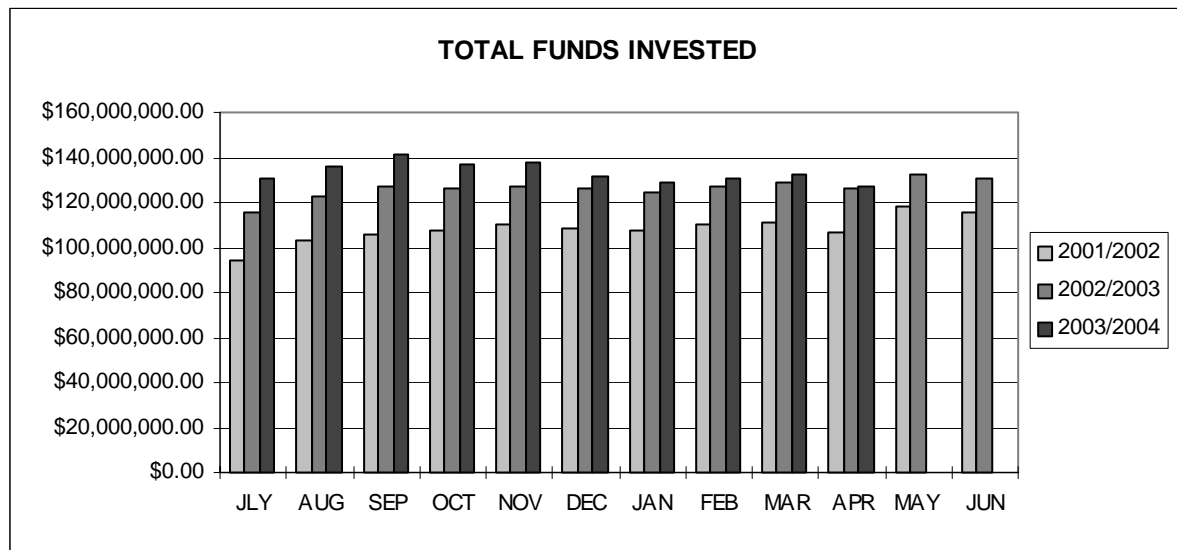
**2. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)**



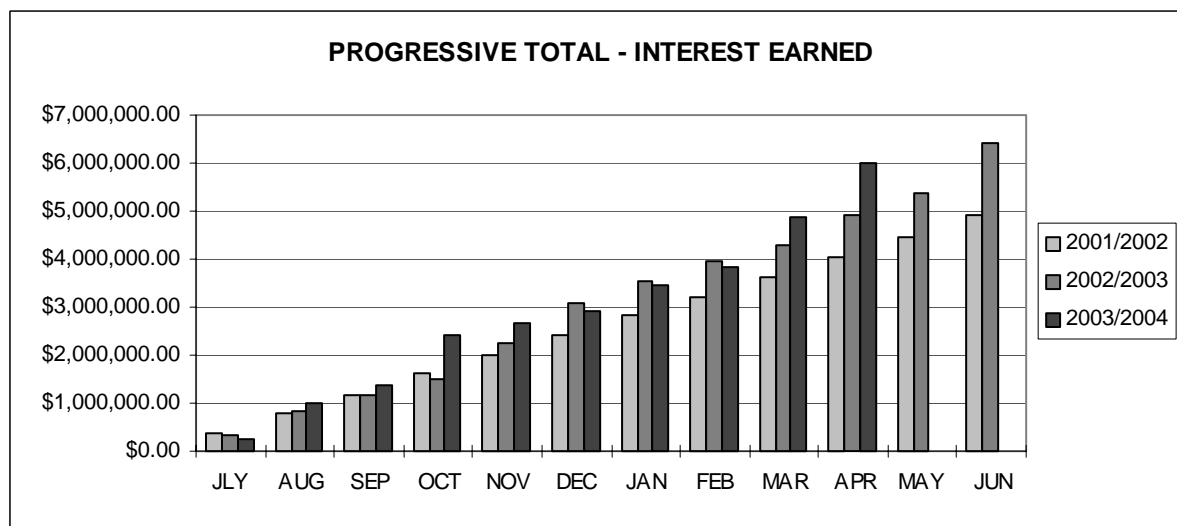
**3. ANNUALISED RATE OF RETURN FOR FUNDS MANAGERS - NET OF FEES**



**4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED**



**5. ANNUAL PROGRESSIVE TOTAL OF INTEREST ON TOTAL FUNDS INVESTED**



**6. MARKET COMMENTARY**

The Reserve Bank of Australia (RBA) Monetary Policy Statement released last week contained indications that we should not expect an interest rate rise here in the near future. The RBA said they considered interest rates to be close to normal and when USA interest rates rise the interest rate differential between the two countries will narrow. ( i.e. the RBA will not be following suit). The RBA are encouraged by a significant downturn in the housing market and they expect inflation will be 1.75% by the end of this year and rise to 2.5% by the end of 2005.

Continuing positive economic indicators coming out of the USA, such as falling unemployment and increasing consumer demand, are placing pressure on the US Federal Reserve Bank to increase interest rates from the current low "emergency" cash rate of 1% sooner rather than later. Underlying inflationary pressure is building in the US and global economies, exacerbated by 14 year high oil prices. It is feared the economic brakes may be applied too late in the US to prevent the requirement for a significant hike in interest rates and subsequent significant economic correction in the global economy.

Since the release of the RBA Monetary Policy Statement the 2004/5 Federal Budget has been announced. Tax cuts and several high cost social welfare reforms were contained in the pre-election Budget which may further stimulate the Australian economy during the coming year and in turn lead to increased consumer spending. The RBA may be left with no alternative but to increase interest rates to counter-act the effect of increased consumer demand brought about by expansionary initiatives contained in the Budget.

## 7. INVESTMENT SUMMARY AS AT 30 APRIL 2004

### GENERAL FUND

TERM DEPOSITS	18,824,000.00	
FUND MANAGERS	19,602,185.67	
FLOATING RATE NOTE	0.00	
CALL	600,000.00	<b>39,026,185.67</b>

### WATER FUND

TERM DEPOSITS	3,000,000.00	
FUND MANAGERS	38,985,174.50	<b>41,985,174.50</b>

### SEWERAGE FUND

TERM DEPOSITS	17,000,000.00	
FUND MANAGERS	25,736,421.87	
FLOATING RATE NOTE	3,000,000.00	<b>45,736,421.87</b>

**TOTAL INVESTMENTS**      **126,747,782.04**

It should be noted that the General Funds investments of \$39 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

**Statutory Statement - Local Govt Financial Management Regulations (Sect.19)**

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Financial Management Regulations and council's Investment policies.



**Responsible Accounting Officer  
Tweed Shire Council**

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**18 [OGM] Tweed & Coolangatta Tourism Inc (TACTIC) Monthly Performance Report - December 2003 to February 2004**

**ORIGIN:**

**Executive Manager**

**SUMMARY OF REPORT:**

Tweed and Coolangatta Tourism Inc (TACTIC) monthly performance reports for December 2003 to February 2004 are provided in accordance with the Agreement criteria.

**RECOMMENDATION:**

That this report be received and noted.

## REPORT:

The agreement between Council and TACTIC requires the organisation to report on a monthly basis its performance in accordance with a number of specific requirements. The following details are provided for the months of November 2003 to February 2004.

### FINANCIAL HIGHLIGHTS - DECEMBER 2003

a. *Months Results:*

- Gross Profit \$32,145
- Expenditure \$36,973
- Profit/Loss (\$4,828)
- Budgeted Profit/Loss (\$776)
- Variance from Budget (\$4,052)

#### Reasons for Variance

- \$973 over Budget Bank Interest received due to Term Deposit maturing
- (\$5,500) under spent on Marketing
- \$3,714 over revenue on Retail Sales
- \$765 over budget on Commissions revenue
- \$1,333 over spent on Retail goods for sale
- \$1,029 over budget Admin expenditure, mainly due to:
  - \$700 telephone
  - \$200 rent
- \$1,853 over budget Human Resources due to high levels of leave
- \$1,477 under spent on Marketing

b. *Year to Date Results:*

- Profit/Loss \$39,656
- Budgeted Profit/Loss \$15,854
- Variance from Budget \$23,802

#### Summary of YTD Variance

##### Revenue

- \$1,866 over budget bank interest
- (\$43,945) under on Marketing revenue (\$36,000 TSC, \$9,000 co-op)
- (\$12,211) under Membership revenue
- \$13,527 over revenue on Retail sales
- \$4,001 over revenue on Travel Commissions

##### Expenditure

- \$6,323 over on Retail purchases (mainly initial costs for development of own products)
- \$1,069 over budget on Administration



- **(\$75,453)** under spent on Marketing
  - \$3,547 over spent on Membership, mainly on Network Nights which have corresponding revenue
  - \$1,925 over on Miscellaneous mainly related to set up for F&E Liaison Officer. This is budgeted in Cash Flow, mainly as capital expenditure but expenditure is being expensed as we go.
  - \$1,493 over on Reservations expenditure
- c. *Cash at Bank 7<sup>th</sup> January 2004*
- \$109,304.12 (Plus Term Deposit \$50,000, Cash in Hand \$550)
- d. *General Business*
- Looking to finalise the Co-operative Marketing revenue by end of January.

## RESERVATION & SALES

### a. *Reservations System*

	No. Bookings	No. Nights	Total Value	Av. Stay (Nights)	Av. Value Per Bkg	Avg value per night
August	8	17	\$1,285	2.13	\$161	\$76
September	15	38	\$5,307	2.53	\$354	\$140
October	6	19	\$1,575	3.17	\$263	\$83
<b>Totals</b>	<b>29</b>	<b>74</b>	<b>\$8,167</b>	<b>2.61</b>	<b>\$259</b>	<b>\$99</b>

### b. *Group Bookings*

Group Name	Dates	No. Bkgs To Date	Value To Date
Vietnam Veterans Re-Union	17 <sup>th</sup> – 20 <sup>th</sup> Oct	5	\$1,356.00
Vindicatrix Re-Union	31 <sup>st</sup> Oct – 2 <sup>nd</sup> Nov	10	\$2,338.00
Aboriginal Housing Commission	3-4 <sup>th</sup> November – Twin Towns	13	\$4550.00

- Group requests have slowed with the holiday season approaching.
- Events planned for 2004 which we are working towards securing business from:
  - NSW Veterans State Championships - Murwillumbah & Mullumbimby Golf Clubs 6 - 10 September
  - 2004 Team Poly Wangaretta to Coolangatta Great Escape - a car rally to raise funds for Cystic Fibrosis. This will attract 60 - 70 cars and an estimated 200 people to Tweed Heads, the weekend of the 18 September 2004.
  - NSW Registered Clubs Assoc. meeting in October.

**MEMBERSHIP**

a. *Current Financial Members*

Service	35	
TACTIC	133	
Reciprocal	4	
Corporate	6	Affils 9
<b>TOTAL</b>	<b>178</b>	

b. *New members to be ratified:*

**Service** **3**

- Riverside Heritage Markets
- Scraparama
- Riverside Dental Practice

**TACTIC** **9**

- Boomerang Cottage
- Caldera Cruises
- Agua Tanquila B & B
- McLeods Car Hire
- Widjagul Tours
- Boyds Bay Boat Hire
- Beaches Hastings Point
- Freedom Air (Reciprocal)
- Tourism Naturally 4WD tours

**Corporate** **0**

c. *Total Financial Members end January 2004 = 190 / 199*

d. *Current Advertising Placements*

- Toowoomba Chronicle, Northern Rivers Holiday Guide, October
- RACV - December / January issue
- Coffs Harbour Advocate - Travel Feature, November
- Head for the Coast Insert by the North Coast Advocate - appearing in Toowoomba Chronicle, November

**FINANCIAL HIGHLIGHTS - JANUARY 2004**

a. *Months Results:*

• Gross Profit	\$43,455
• Expenditure	\$53,482
• Profit/Loss	(\$10,027)
• Budgeted Profit/Loss	<u>\$2,306</u>
• Variance from Budget	(\$12,333)

## Reasons for Variance

### Revenue

- \$4,727 under Co-operative Marketing revenue
- \$864 under Membership Revenue
- \$4,233 over revenue on Retail Sales
- \$11,818 over Revenue - Payment for Small Meetings Market Feasibility Study

### Expenditure

- \$536 over spent on Cost of Goods Sold due to amortisation of TACTIC retail products
- \$1,219 over budget Admin expenditure, mainly due to:
  - \$700 telephone
  - \$200 rent
  - \$832 Printing & Stationery
- \$3,488 under budget Human Resources Admin person not yet appointed / GM lower days
- \$19,758 over spent on Marketing - timing difference
- \$4,311 Small Meetings Feasibility Study (not in budget)
- \$915 R&M Murwillumbah Air Conditioner / Cash Register

b. *Year to Date Results:*

- Profit/Loss                      \$29,533
- Budgeted Profit/Loss        \$18,160
- Variance from Budget        \$11,373

### *Summary of YTD Variance*

### Revenue

- Marketing revenue still to have \$36,000 TSC added
- **(\$13,074)** under Membership revenue
- \$17,760 over revenue on Retail Sales
- \$4,173 over revenue on Travel Commissions
- \$11,479 Sundry income related to Small Meeting Study

### Expenditure

- \$6,860 over on Retail purchases (monthly amortisation of TACITC products)
- \$2,288 over budget on Administration
- **(\$55,695)** under spent on Marketing
- \$3,554 over spent on Membership, mainly on Network Nights which have corresponding revenue
- \$6,237 over on Miscellaneous mainly related to set up for F&E Liaison Officer. This is budgeted in Cash Flow, mainly as capital expenditure but expenditure is being expensed as we go.
- \$1,493 over on Reservations expenditure

c. *Cash at Bank 14<sup>th</sup> January 2004*

- \$109,362.56 (Cash in Bank \$58,812.56, Term Deposit \$50,000, Cash in Hand \$550)

d. *General Business*

- Letter sent to GM TSC re \$36,000 based on reduced Co-op revenue
- Budget pitched to Executive Management Team TSC

e. *Budget requested 2004/05*

- \$500,000 pa for next two years
  - \$265,000 - VIC management/administration
  - \$120,000 Promotion
  - \$70,000 Research
  - \$10,000 Agri-tourism project
  - \$10,000 Taste the Tweed project
  - \$15,000 Festivals & Events
- \$400,000 for subsequent years

## RESERVATIONS & SALES

a. *Visitor numbers to Visitor Information Centres*

January-04

WHRC					Tweed Heads				
	2004	%	2003	Variance		2004	%	2003	Variance
<b>Total Visitors</b>	2982		3293	-9.44%	<b>Total Visitors</b>	2211		1608	37.50%
<i>Type of Enquiry</i>					<i>Type of Enquiry</i>				
Tourism	922	67.50%	920	0.22%	Tourism	750	54.90%	637	17.74%
National Parks	167	12.23%	405	-58.77%	National Parks	32	2.34%	23	39.13%
Street Directions	117	8.57%	119	-1.68%	Street Directions	149	10.91%	70	112.86%
Bus Timetables	17	1.24%	31	-45.16%	Bus Timetables	111	8.13%	83	33.73%
Other	143	10.47%	125	14.40%	Other	193	14.13%	79	144.30%
<b>TOTAL</b>	<b>1366</b>		<b>1600</b>	<b>-14.63%</b>	<b>TOTAL</b>	<b>1235</b>		<b>892</b>	<b>38.45%</b>

### Highlights

- The number of visitors to Murwillumbah showed a decrease in comparison to the same period last year.
- Strong increase of numbers in the mall continued throughout for January with a 37.50% increase to tourist visitors compared to January last year.
- The figures indicate the strong preference during the summer holidays for the coastal areas, supported by the increase in booking numbers for the Tweed Coast properties.

*b. Year to Date*

	2003/04	2002/03	Variance	2003/04	2002/03	Variance
	<b>WHRC</b>			<b>Tweed Heads</b>		
Sept Qtr	8033	6885	16.67%	5544	1401	295.72%
Dec Qtr	7457	3108	139.93%	5721	5109	11.98%
Jan Qtr	2982	3293	-9.44%	2211	1608	37.50%
<b>Total</b>	<b>18472</b>	<b>13286</b>	<b>39.03%</b>	<b>13476</b>	<b>8118</b>	<b>66.00%</b>

**Highlights**

- Visitation to the Tweed Heads Information Centre continued a strong growth in visitor numbers.
- YTD for Murwillumbah show an overall growth despite the downturn for January 2004.

*c. Retail Sales*

	January 2004	January 2003
Number of Sales	575	
Average \$ per Sale	\$8.36	
Average \$ per Visitor	\$1.61	\$1.13

**Highlights**

- Retail sales in Murwillumbah showed a smaller spend per person – sales typically smaller maps and souvenir items. Mt Warning stubbie holders sold well.
- Record month in Retail sales of our product at the Mall for January of \$807.00

*d. Reservations*

- Accommodation and tour booking commissions budget for January was set high at \$3,348.00. Total commissions achieved for the month was a record \$3521.00, \$173.00 above budget and an increase of \$1512.00 compared to commissions for the same period last year.

*e. Reservations System*

	No. Bookings	No. Nights	Total Value	Av. Stay (Nights)	Av. Value Per Bkg	Avg value per night
August	8	17	\$1,285	2.13	\$161	\$76
September	15	38	\$5,307	2.53	\$354	\$140
October	6	19	\$1,575	3.17	\$263	\$83
November	4	5	\$683	1.25	\$171	\$137
December	4	10	\$1,135	2.5	\$284	\$114
January	4	9	\$787	2.25	\$197	\$88
<b>Totals</b>	<b>33</b>	<b>98</b>	<b>\$4,180</b>	<b>4.61</b>	<b>\$476</b>	<b>\$212</b>

## Highlights

- Minimal bookings made the On-line reservation system due to limited availability for demand properties in coastal regions.
- Currently updating rates for period April 2004 through to March 2005.
- February already showing increase for number of bookings made.

f. *Current Group Bookings as at 16 January 2004*

GROUP NAME	DATES	NO. BOOKINGS TO DATE	VALUE TO DATE
Summer Classic Softball Tournament	10 – 11 Jan 04	11	\$1271.00
2004 NSW U/16 Softball Titles	29-30 May 04	17	\$3077.00
Veterans Week Of Golf	9 <sup>th</sup> – 15 <sup>th</sup> Aug 04		
NSW Veterans State Championships	6-10 Sept 04		
Aust Society of Ayurvedic Studies	5 small weekend meetings at Twin Towns Mar – Nov.		

- Increase this month in number of requests for group / meetings in the area.
- Events/Conferences/Meetings planned for 2004 which we are working towards securing business from:
  - DEET 2 day training session, 20-25 pax
  - Provis Club from Banksia Beach group holiday with tours in Sept/October.
  - 20-25 pax
  - NSW Registered Clubs Assn meeting in October
  - Combined Community Legal Centres National Conference, 5 days, 350-400pax end August/beginning September 2005

## MEMBERSHIP REPORT

a. *Current Financial Members*

	February 2004	February 2003
Service	38	23
TACTIC	142	134
Reciprocal	4	2
Corporate	6	4
<b>Corporate Affiliates</b>	<b>9</b>	<b>2</b>
<b>TOTAL</b>	<b>190 /199</b>	<b>163 / 165</b>

b. *New members to be ratified*

<b>Service</b>	<b>2</b>
Malaya Palace	
The New Fishermans Cove Seafood Tavern	
<b>TACTIC</b>	<b>2</b>
Comfort Inn Tweed River	
Limpinwood Teahouse	
<b>Corporate</b>	<b>0</b>

c. *Total Financial Members end February 2004*      194 / 202

**FINANCIAL HIGHLIGHTS - FEBRUARY 2004**

a. *Months Results:*

• Gross Profit	\$60,599
• Expenditure	\$32,971
• Profit/Loss	\$27,628
• Budgeted Profit/Loss	<u>(\$30,337)</u>
• Variance from Budget	\$57,965

**Reasons for Variance**

**Revenue**

- \$36,000 TSC contribution to campaign
- (\$1,137) Membership
- \$1,258 over Retail Sales
- \$747 over Commissions

**Expenditure**

- \$871 over Administration
- (\$2,743) under HR
- (\$23,525) Marketing

b. *Year to Date Results:*

• Profit/Loss	\$57,160
• Budgeted Profit/Loss	<u>\$12,177</u>
• Variance from Budget	\$69,377

## Summary of Variance

### Revenue

- (\$14,200) under membership
- \$19,018 over Retail Sales
- \$4,921 over Commission

### Expenditure

- \$8,862 over COGS
- \$3,160 over Administration
- \$6,854 under HR
- \$79,220 under Marketing
- \$3,555 over Membership
- \$6,300 over Miscellaneous
- \$1,480 over Reservations

#### c. Cash at Bank 10th March 2004

- \$141,277.94 (Cash in Bank \$90,727.94, Term Deposit \$50,000, Cash in Hand \$550)

## RESERVATIONS & SALES

#### a. Visitor Numbers to Visitor Information Centres

February

WHRC					Tweed Heads				
	2004	%	2003	Variance		2004	%	2003	Variance
<b>Total Visitors</b>	1952		1734	12.57%	<b>Total Visitors</b>	1750		1119	56.39%
<i>Type of Enquiry</i>					<i>Type of Enquiry</i>				
Tourism	673	49.27%	501	34.33%	Tourism	619	45.31%	474	30.59%
National Parks	130	9.52%	189	-31.22%	National Parks	30	2.20%	9	233.33%
Street Directions	137	10.03%	113	21.24%	Street Directions	200	14.64%	65	207.69%
Bus Timetables	19	1.39%	21	-9.52%	Bus Timetables	102	7.47%	60	70.00%
Other	132	9.66%	90	46.67%	Other	142	10.40%	54	162.96%
<b>TOTAL</b>	<b>1091</b>		<b>914</b>	<b>19.37%</b>	<b>TOTAL</b>	<b>1093</b>		<b>662</b>	<b>65.11%</b>

## Highlights

- The number of visitors to Murwillumbah showed a slight increase over the same period last year.
- Increase in number of Canada and UK visitor numbers, especially in the Tweed Heads area.
- Strong growth to visitors to the Tweed Heads Visitor Centre.



b. *Year to Date*

	2003/04	2002/03	Variance	2003/04	2002/03	Variance
	WHRC			Tweed Heads		
Sept Qtr	8033	6885	16.67%	5544	1401	295.72%
Dec Qtr	7457	3108	139.93%	5721	5109	11.98%
Mar Qtr	4934	5027	-1.85%	3961	2727	45.25%
Jun Qtr						
<b>Total</b>	<b>20424</b>	<b>15020</b>	<b>35.98%</b>	<b>15226</b>	<b>9237</b>	<b>64.84%</b>

**Highlights**

- Visitation to the Tweed Heads Information Centre continued a strong growth in visitor numbers in comparison to the previous year.
- Visitation YTD for March Qtr in Murwillumbah slightly down compared to 2003.

c. *Retail Sales*

	<b>February 2004</b>	<b>February 2003</b>
Number of Sales	408	
Average \$ per Sale	\$8.77	
Average \$ per Visitor	\$1.83	\$1.68

**Highlights**

- Retail sales in Murwillumbah increase in average spend per person.
- Retail sales of our product at the Mall for February were \$685.00.
- Total retail sales for the month \$4 754.97, \$1 257.97 over budget.

d. *Reservations*

- Accommodation and tour booking commissions budget for February was \$1,844.00. Total commissions achieved for the month was a record \$2,591.09, \$747.09 above budget.

e. *Reservations System*

	<b>No. Bookings</b>	<b>No. Nights</b>	<b>Total Value</b>	<b>Av. Stay (Nights)</b>	<b>Av. Value Per Bkg</b>	<b>Avg value per night</b>
August	8	17	\$1,285	2.13	\$161	\$76
September	15	38	\$5,307	2.53	\$354	\$140
October	6	19	\$1,575	3.17	\$263	\$83
November	4	5	\$683	1.25	\$171	\$137
December	4	10	\$1,135	2.5	\$284	\$114
January	4	9	\$787	2.25	\$197	\$88
February	7	8	\$804	1.14	\$115	\$101
<b>Totals</b>	<b>33</b>	<b>106</b>	<b>\$4,984</b>	<b>2.14</b>	<b>\$515</b>	<b>\$246</b>

## Highlights

- Steady increase with the number of bookings made via website. Staff and volunteers have an increased awareness for using the website.
- Currently updating rates for period April 2004 through to March 2005.

### f. Group Bookings

- Increase this month in number of requests for group/meetings in the area.
- Events/Conferences/Meetings planned for 2004/5 which we are working towards securing business from:
  - DEET 2 day training session, 20-25 pax – booked at Twin Towns
  - NSW Registered Clubs Assn meeting in October
  - Combined Community Legal Centres National Conference, 5 days, 350-400pax end August/beginning September 2005
  - Local Government Association Conference, 140 pax, 18-19 November 2004
  - NSW Agriculture, approx 230pax, February 2005.

Group/Event Booking	Dates:	No Pax:	Room Nights Bked	Total \$ Value To Date:	Comment:
Ayurvedic Studies	6 weekends - 2004	20 each mtg	6	\$297.50	Low budget delegates Meeting already booked at Twin Towns
2004 NSW U/16 State C'Ships Tweed Heads	29 - 30 May		37	\$3,227.00	
Veterans Week Of Golf Tweed Coolangatta Golf Course	9 Aug - 15th Aug 2004				
NSW Veterans State C'ships Murwillumbah/Mullinbinby	6th - 10th Sept 2004				Accommodation & booking sheets sent to NSW clubs March 2004
SCU - 26th Annual AARMEC Stn Cross University	25th - 28th Sept 2004				Accommodation & booking sheets sent to Marilyn 2/3/04

Group/Conference Bookings	Dates:	Property:	Room Nights Bked	Total \$ Value Accommm:	Comments
Dept Education & Training	8-9 March 2004	Twin Towns	4	\$560.00	
NRRDB	22.3.04	Twin Towns			Checking rates & availability
U/16 Boys Hockey Team	4th - 9th July 2004				Liaising with coach to secure booking Tweed Heads properties
Local Govt Association	18-19 November 2004	Twin Towns			Competing with Coffs Harbour as a destination - approx 120pax
NSW Agriculture	pref 7 - 11 Feb 2005	Twin Towns			Up to 230 delegates - various accomm 3 day conference - venue/dest - TBA
Combined Comm Legal Centres National Conference 2005	Aug - Sept 2005				350 - 400 pax attending, submitted teno awaiting National Board decision - poss
<b>Total To Date:</b>			47	\$4,084.50	

## MEMBERSHIP REPORT

### a. Television Campaign

A new media schedule has been developed and presented to the Marketing Committee who have recommended

*b. Website*

Weekly visits by month

	<b>February 2004</b>	<b>January 2004</b>	<b>December 2003</b>
Wk 1	1036	1137	1274
WK 2	1069	1173	1003
WK 3	1084	1452	1068
Wk 4		555	990
<b>Total</b>	<b>3189</b>	<b>4317</b>	<b>4335</b>
Avg per day	151	154	154

*c. Tracking in February*

- Directories and White Pages are the highest points of contact closely followed by word of mouth; Yellow Pages and the Tweed Coolangatta Visitor Guide.
- Good responses from articles in Weekend Australian and Sunday Mail

*d. Public Relations*

- Article appeared in the Sunday Mail on 7 March with an EAV of \$84110.40.
- Article still to appear through the APN network – Claire is following up.
- The EAV has now reached \$356,687 since April 2003
- Media Famils this month have included: Brisbane News

*e. Trade Shows*

- A booking has been made for a share booth at DTE, which is being held at Gold Coast this year in August
- Tentative booking made for Toowoomba Spring Show during Flower Festival in October.
- Action plan and budget being developed for 2004-2005

*f. Photo Shoot*

- CD of images to date now available and launched at Network Night
- Some volunteer models for photo shoot have been obtained from the membership, staff and the Murwillumbah Theatre Company.
- Meeting to be held with photographer on 18<sup>th</sup> March to allocate models to particular shots and set timeframe for completion.

*g. Network Nights*

- The network night had a relatively low response rate. Members stating Reasons for not attending include:
  - Too busy with Quiksilver/in house functions etc
  - Rotary or other meeting on
  - Costs too much for two people
  - Haven't seen it - has not been circulated in house to appropriate people
- Attendance: Total 50 with 35 members attending representing 23 memberships
- Response to General Manager's presentation was very good with non-attendees requesting copies of the presentation.
- Next Network Night to be held in May. Discussions being held with Spirit of the Bay Cruises to coincide with their industry famils.

*h. Northern Rivers Tourism*

- Marketing campaign has commenced with advertisements in this months Open Road

*i. Taste the Tweed*

- TACTIC sent out an invitation on behalf of Taste the Tweed to its members to attend a meeting. At this meeting it was resolved that a regular column be negotiated with the Daily News highlighting a local product, the producer and a recipe under the Taste the Tweed banner.

*j. Local media*

- In light of continuing editorial and article bias against Tweed & Coolangatta Tourism in the Daily News the marketing committee has recommended:

*"That TACTIC be more pro-active in approaching the Tweed Sun directly with the provision of interviews and that the Daily News receive ongoing Press Releases only."*

**MEMBERSHIP**

*a. Current Financial Members*

	<b>March 2004</b>	<b>March 2003</b>
Service	40	24
TACTIC	144	137
Reciprocal	4	2
Corporate	7	4
Corporate Affiliates	9	4
<b>TOTAL</b>	<b>194 /202</b>	<b>167 / 171</b>

b. *New members to be ratified*

<b>Service</b>	2
Birdwing Café & Curious	
Woodlands Lakeside Manor	
<b>TACTIC</b>	1
Crabbes Creek Cottages	
<b>Corporate</b>	1
Resort Corp Cabarita Pty Ltd	

c. *Total Financial Members end March 2004*      198 / 207

d. *Current Membership Projects*

- Ongoing follow up of potential members
- From now to June 2004 new members will be offered option of paying pro-rata or current 12 month rate for 15 months ie: to 30<sup>th</sup> June 05 as per previous year
- Review & update of communication procedures and contact details
- Review of member benefits to be undertaken and ratified
- Development of action plan for 2004/2005
- Redesign of member certificate

**PUBLIC RELATIONS & MEDIA**

a. *Media*

- To Air: Channel 9's Gold Coast Weekend, 21<sup>st</sup> February, Segment on the Tweed Areas covered: WHRC, Art Gallery, UKI, Kingscliff. (Two VHS copies to be provided). The program ran for about 3 minutes, with estimated value EAV \$29 700
- Sunday Telegraph, Dec. 7<sup>th</sup>, Feature by David May, featured Crystal Creek Rainforest Lodges EAV \$ 4,125
- Sunday Herald Sun, Dec. 28<sup>th</sup>, Feature by David May, featured Crystal Creek Rainforest Lodges EAV \$ 2,100
  
- Total EAV    \$ 272, 577.09

**Note:** Both above were submitted by TNSW. David May is a Queensland based freelance writer – probably one of the top 10 in Aust. We have asked for a famil. but he says he's got trips line up for the next 12 months !

- APN Newspapers "Coast with the Most' Feature 21 February"    tba
- Daily News, 13 February: Article on \$ ¼ million pr boost, EAV: \$ 2 480
- Sunday Mail, Article by Alison Cotes following Media Trip 17/19 February (to be published 7 March)

*b. Media Trips*

- 17/19 February. Successful 3 days with Alison Cotes and APN journalist Neil Hickey (Sunshine Coast Daily based). We covered the new Art Gallery, 'round the Tweed villages' Tropical Fruit World, Catch a Crab Cruise, Tweed Coast beaches. Accommodation provided by Treetops and Cabarita's Hideway. New owners Impy's Restaurant, Imperial Hotel in Murwillumbah hosted dinner on our first night. No dates yet for Neil's articles.
- 12 February. RACQ's Jim Mathers spent the day in the Tweed. Covered Art Gallery, Tweed villages, 3 Holiday Parks – Boyds Bay Billabong, Tweed South & Hastings Point. Article will appear in April edition of 'The Road Ahead'.

**Coming up:**

- 13/14 March. BRISBANE NEWS, Writers hosted by Twin Towns Resort, Catch a Cab Cruise (itinerary now being finalised).
- June, 2004. AAP Travel Editor/freelance Jim Shrimpton.
- March/April 2004 - Queensland Country Life, Town & Country Editor Georgina Murphy.

*c. Media Action*

- Media Releases/editorial sent: "Holiday & Leisure Guide' published April 2. Subject: Region/Holiday Parks.
- 'Junior Ambassador" story sent to GCBulletin, Daily News, NBN. A photo shoot confirmed from GCB and Dnews, to cover a presentation to Kayla Hufton on 2 March at the WHRC.

*d. Other*

- APN's new monthly holiday and travel lift-out 'Travel Trends' is published in their 14 regional newspapers the first Sat. of each month. They have specific topics for each Aust. region, overseas and product. Contact now made.
- CDs Copies sent to Alison Cotes, Neil Hickey. These will now be included in media kits and information sent to the media.

**BOARD ATTENDANCE 2003/2004**

	31-Jul-03	4-Sep-03	24-Sep-03	23-Oct-03	27-Nov-03	22-Jan-04	25-Mar-04	Total / 7
Lee Eyre	x	x	x	✓	✓	✓	x	3
Barrie Briggs	✓	✓	✓	✓	✓	✓	✓	7
Shane Marshall	✓	✓	x	✓	✓	✓	✓	6
Clive Parker	✓	x	✓	✓	✓	✓	✓	6
Zeta Grealy	x	✓	✓	✓	✓	✓	✓	6
Mark Manteit	✓	✓	✓	Resigned from Board				3 / 3
Wendy Marshall	x	x	x	x	x	x	x	0
Bob Brimsmead	✓	x	x	x	x	x	x	1
Richard Adams	·	·	·	Elected 6/11/03	✓	✓	✓	3 / 3

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS

### 19 [ES] Deed of Agreement with Twin Towns Services Club - Drainage Easement at Club Banora

#### ORIGIN:

Design

FILE NO: DA3035/140 Pt 4

#### SUMMARY OF REPORT:

Council has conducted protracted negotiations, over a period of approximately 2 years, with Twin Towns Services Club to create a Drainage Easement in Council's favour over the moat at Club Banora.

It was necessary to create the Easement in Council's favour to enable Council to maintain the moat, as part of the Banora Point Western Drainage Scheme, as the moat carries a great part of the stormwater run off from the surrounding residential areas. Council would not accept the maintenance of the moat, initially, as it was created to protect the Club's land and until an Easement was created, Council had no right of entry to maintain it.

The Plan of Management for the Drainage Scheme was approved by Council in late 2003. The Plan of Management provides for the maintenance of the moat as it forms part of the Scheme for western Banora Point.

A Deed of Agreement has been drawn whereby Council will maintain the moat following the creation of the Easement. A plan to create the Easement has been drawn. It is now necessary to resolve to agree to enter into the Agreement and to sign all necessary documentation under the Common Seal.

#### RECOMMENDATION:

That Council :

1. Enters into a Deed of Agreement with Twin Towns Services Club whereby Council will accept maintenance of the moat at Club Banora at Banora Point and the Club will grant Council an Easement for Drainage as part of the Western Banora Point Drainage Scheme;
2. Executes all necessary documentation under the Common Seal of Council.

**REPORT:**

Council has conducted protracted negotiations, over a period of approximately 2 years, with Twin Towns Services Club to create a Drainage Easement in Council's favour over the moat at Club Banora.

It was necessary to create the Easement in Council's favour to enable Council to maintain the moat, as part of the Banora Point Western Drainage Scheme, as the moat carries a great part of the stormwater run off from the surrounding residential areas. Council would not accept the maintenance of the moat, initially, as it was created to protect the Club's land and until an Easement was created, Council had no right of entry to maintain it.

The Plan of Management for the Drainage Scheme was approved by Council in late 2003. The Management Plan details the maintenance regime for all stormwater within the western Banora Point area and also provides for the maintenance of the moat as it forms part of the Scheme.

A Deed of Agreement has been drawn whereby Council will be obliged to maintain the moat following the creation of the Easement. A plan to create the Easement has been drawn. It is now necessary to resolve to agree to enter into the Agreement with the Club and to sign all necessary documentation under the Common Seal.

A plan showing the proposed Easement follows:-



keeps separate the Eastern Drainage System and the Western Drainage System.

“Plan” means the plan comprising Schedule Two to this Deed.

“Registration” means registration as a dealing at the Land and Property Information Office.

“Salt Water” means water the salinity level of which exceeds 600 parts per million.

“Banora Point West Drainage Scheme – Operational Management Plan 2003” means the plan of management adopted by Council in respect of the Drainage Scheme, a copy of which in the form existing at the date of this Deed comprises Schedule Three to this Deed.

“Banora Point West Drainage Scheme” means the network of open stormwater drains servicing Banora Point West which is described in the Banora Point Western Drainage Operational Management Plan 2001.

- 1.2 A reference to a person includes a reference to a Body Corporate.
- 1.3 Words in the singular include the plural and words in the plural include the singular.
- 1.4 Words importing one gender include all genders.
- 1.5 Any reference in this Deed to any statute or regulation includes all amendments and revisions made from time to time to that statute or regulation.
- 1.6 Any note appearing as a heading in this Deed has been inserted for convenience of reference only.
- 1.7 Where any party comprises more than one person the agreements entered into by that party are entered into jointly and severally by the person comprising that party.

## 2. THE OBLIGATIONS

2.1(a) Council acknowledges that the Club uses fresh water from the Canal to irrigate the Land and that the Club will have no practical or viable means by which to irrigate the Land if Salt Water intrudes into the Canal.

(b) Council must not, whether by act or omission, do anything which results in, or which can reasonably be expected to result in, the intrusion of Salt Water into the Canal.

(c) Council must not, whether by act or omission, do anything which results in, or which can reasonably be expected to result in, the fresh water being prevented from entering the Canal.

**2.2(a)** Council acknowledges that the Permanent Barrier plays an important role in preventing the intrusion of Salt Water into the Canal.

(b) Council agrees not to remove or alter the Permanent Barrier.

(c) Council agrees to maintain the Permanent Barrier and keep it in a good and proper state of condition and repair.

**2.3(a)** Council must not repeal the Management Plan.

**2.4** Council must not, whether by act or omission do anything, which will result in, or can reasonably be expected to result in, Council being no longer responsible for any of the Obligations.

**2.5** The Club acknowledges that any salt derived from ground water sources as a result of irrigation practices by the Club within Lot 2 DP 1040576 will not be the responsibility of Council, nor will Council accept any liability for damages as a result of the existence of salt derived from ground water used for irrigation purposes.

### **3. GRANT OF EASEMENT**

**3.1** The Club must grant in favour of Council the Easement within 28 days from the date of this agreement.

**3.2** The Club shall, as soon as practicable after being requested by Council so to do sign and return to Council a copy of the Plan (in a form capable of Registration) and the Instrument. Council shall then attend to registration of the Plan and Instrument.

**3.3** The Club shall, as soon as practicable after being requested by Council so to do, produce the Certificate of Title to the Land at the Land and Property Information Office so as to permit registration of the Plan and the Instrument.

**3.4** The Club shall not mortgage charge lease or otherwise encumber its interest in the Land or consolidate the Land with any other land until Registration of the Plan and the Instrument has taken place.

### **4. PROPER LAW**

The proper law of this Deed will be the laws in force in the State of New South Wales and the parties by their execution of this Deed agree to submit to the jurisdiction of the courts of Australia.

### **5. STATUTORY RIGHTS NOT AFFECTED**

Nothing contained in this Deed or done pursuant to its terms shall in any way affect any statutory duty power or function of their party.

**6. SEVERABILITY**

Council and the Club agree that each obligation under or pursuant to this Deed is a separate and independent obligation and if any provision of this Deed or its application to any party person or circumstance is or becomes invalid void voidable or otherwise unenforceable for any reason whatsoever then:

- (a) the provision or its application to such party person or circumstance shall be severable from this Deed;
- (b) the remainder of this Deed or the application of such provision to such other parties persons or circumstances shall not be affected thereby;
- (c) the provision may be replaced with a valid and enforceable provision which so far as possible achieved the same purpose or effect as the invalid void or otherwise unenforceable provision was intended to achieve provided that in so doing the basic purpose and intend of this Deed is preserved.

**7. COSTS**

- 7.1** The cost of preparing and of Registration of any document which, pursuant to a provision of this Deed, a party is required to register shall be borne by that party.
- 7.2** Subject to 7.1, the Club and Council shall be responsible for payment of their own legal fees costs charges and expenses incurred in the preparation and execution of this Deed or any disbursements created pursuant to or contemplated by this Deed.

5

**SCHEDULE ONE**

THE INSTRUMENT

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS  
TO USER INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE  
CONVEYANCING ACT 1919-1964**

Sheet 1 of 3 sheets

Plan: DP Subdivision covered by Council Clerk's  
Certificate No.

**PART 1**

Full Name and Address of  
Proprietor of the Land:

**TWIN TOWNS SERVICES CLUB  
LIMITED (ABN 61 001 042 833) of 1  
Wharf Street, Tweed Heads. NSW. 2485**

1. Identify of Easement Firstly  
referred to in the abovementioned Plan: Easement for drainage of water  
variable width

**Schedule of Lots, etc. Affected**

Lots Burdened

Authority Benefited

Lot in DP

Tweed Shire Council

**PART 2**

1. **TERMS OF EASEMENT FOR DRAINAGE OF WATER FIRSTLY REFERRED TO  
IN THE ABOVEMENTIONED PLAN**

1. The authority benefited may:
- (a) drain fresh water (but not salt water) from any natural source through the lot burdened, but only within the site of this easement; and
  - (b) do anything reasonably necessary for that purpose, including:
    - entering the lot burdened;
    - taking anything on to the lot burdened;
    - using the existing channel; and
    - carrying out work, such as repairing or maintaining the existing channel and equipment, but not do undertake any works which will reduce the volumetric water storage capacity of the channel.
2. In exercising those powers, the authority benefited must:
- (a) ensure all work is done properly;
  - (b) cause as little inconvenience as is practicable to the owner and any occupier of the lot burdened;
  - (c) cause as little damage as is practicable to the lot burdened and any improvement on it;

Prepared: 14/4/04 2:23 PM



**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO  
USER INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE  
CONVEYANCING ACT 1919-1964**

Sheet 2 of 3 sheets

Plan: DP                      Subdivision covered by Council Clerk's Certificate No.

- (d) restore the lot burdened as nearly as is practicable to its former condition;
  - (e) make good any collateral damage
  - (f) not, whether by act or omission, do anything which results in, or which can reasonably be expected to result in, the intrusion of salt water into the existing channel;
  - (g) not, whether by act or omission, do anything which results in, or which can reasonably be expected to result in, fresh water being prevented from entering the existing channel;
  - (h) not remove or alter the permanent barrier indicated on the plan; and
  - (i) maintain the permanent barrier in the position indicated on the plan in a good and proper state of condition and repair.
3. (a) The authority benefited must not, whether by act or omission, do anything which will result in, or which can reasonably be expected to result in, the Banora Point Western Drainage Operational Management Plan 2003 ("the Management Plan") being amended or altered in such a way that:
- (i) the lot burdened is no longer incorporated within the Management Plan;
  - (ii) the authority benefited ceases to be obliged to maintain the existing channel to a standard not less than that of all other parts of the Management Plan; and
  - (iii) the owner of the lot burdened ceases to be permitted to periodically remove silt from the existing channel to the extent necessary to maintain a minimum depth of water at all positions through that channel of 1.5 metres, provided it is in accordance with any current Management Plan adopted by the Tweed Shire Council.
- (b) The authority benefited must not at any time replace the Management Plan with another plan of management in substitution for the Management Plan unless that other plan contains provisions which ensure that:
- (i) the lot burdened is incorporated within it;
  - (ii) the authority benefited is obliged to maintain the existing channel to no less a standard than that of all other land within it; and
  - (iii) the owner of the lot burdened is permitted to periodically remove silt from the existing channel to the extent necessary to maintain a minimum depth of water at all positions through it of 1.5 meters.
- (c) The authority benefited must not repeal the Management Plan.

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO  
USER INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE  
CONVEYANCING ACT 1919-1964**

Sheet 3 of 3 sheets

Plan: DP Subdivision covered by Council Clerk's Certificate No.

2. **NAME OF PERSON AUTHORISED TO RELEASE, VARY OR MODIFY THE  
EASEMENT FIRSTLY REFERRED TO IN THE ABOVEMENTIONED PLAN**

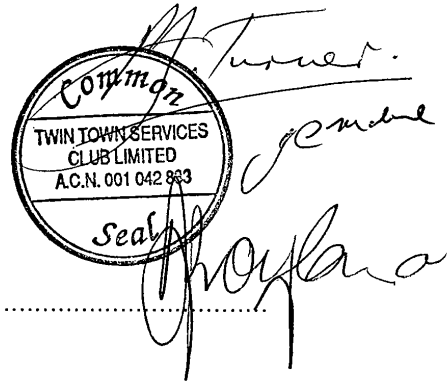
The owner of the lot burdened and the authority benefited, jointly.

DATED at this day of 2004.

THE COMMON SEAL of TWEED SHIRE COUNCIL )  
was hereunto affixed in accordance with a )  
resolution passed at a meeting held on )  
in the presence of: )

.....

THE COMMON SEAL of TWIN TOWNS SERVICES )  
CLUB LIMITED (ABN 61 001 042 833) was )  
affixed hereto in accordance with its )  
Memorandum of Articles of Association in the )  
presence of: )



.....

9

**SCHEDULE TWO**

THE PLAN

**PLAN FORM 2**  
SIGNATURE AND SEALS ONLY

Plan Drawing only to appear in this space

**SCHEDULE OF BOUNDARY LINES**  
COPILED FROM DP1040576

LINE BEARING	DIST	LINE BEARING	DIST
1	88°45'20"	20	5
2	188°45'20"	3	5
3	188°45'20"	164	12.86
4	278°45'20"	277	6.05
5	181°36'	25	157.59
6	200°41'50"	87	107
7	200°41'50"	352	200.20
8	180°12'20"	80	78
9	161°42'10"	29	313°45'30"
10	188°45'20"	30	283°37'30"
11	158°50'20"	10	596
12	158°50'20"	10	596
13	213°53'10"	85	87
14	220°50'20"	27	939
15	143°37'10"	40	99
16	199°35'40"	46	12
17	199°35'40"	227	705
18	286°46'30"	39	42°58'40"
19	281°28'	40	24°45'10"
20	282°14'40"	55	59

**SCHEDULE OF EASEMENT LINES**

LINE BEARING	DIST	LINE BEARING	DIST
42	278°45'20"	87	25°50'25"
43	204°41'50"	89	11°34'45"
44	204°41'50"	90	355°19'35"
45	215°30'20"	10	315
46	228°44'50"	8	985
47	228°44'50"	92	12°38'50"
48	258°42'10"	81	35
49	210°04'45"	94	32°45'05"
50	197°50'05"	95	38°25'35"
51	197°50'05"	18	765
52	197°50'05"	18	765
53	198°28'35"	13	765
54	198°28'35"	22	825
55	189°14'25"	95	76
56	189°14'25"	13	975
57	189°14'25"	13	975
58	175°05'30"	7	555
59	146°13'10"	7	555
60	119°20'55"	7	555
61	104°12'55"	22	145
62	104°12'55"	22	145
63	115°39'35"	10	52
64	121°31'40"	11	505
65	128°46'10"	9	165
66	130°30'20"	17	25
67	130°30'20"	17	25
68	144°50'05"	13	25
69	151°11'10"	13	25
70	151°11'10"	11	3
71	151°11'10"	11	3
72	167°16'15"	45	88
73	166°29'40"	33	58
74	166°29'40"	33	58
75	151°11'10"	12	596
76	151°11'10"	12	596
77	137°06'55"	7	68
78	108°46'	12	455
79	108°46'	32	325
80	108°46'	32	325
81	108°46'	32	325
82	110°38'25"	35	488
83	108°46'	70	74
84	107°03'30"	81	65
85	107°03'30"	81	65
86	37°25'10"	9	63

PLAN OF EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH WITHIN LOT 2 DP1040576

Lengths are in metres. Reduction Ratio 1:4000

**L.O.A. TWEED BANORA POINT TERRANORA ROUS**

This is sheet 1 of 2 in this plan. Refer to sheet 2 for further details.

Surveyed by Mr. [Name] for [Name]

Surveyed on [Date]

Surveyed under [Act]

Surveyed in accordance with the provisions of the Survey Act 1981.

Panel for use only for statements of intention to dedicate public roads or to create easements. It is not to be used for any other purpose.

PURSUANT TO SEC 88 B OF THE CONVEYANCING ACT 1919-64 IT IS INTENDED TO CREATE:-

1) EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH

PLAN APPROVED: [Signature]

Level Director: [Signature]

Subdivision Certificate: [Signature]

General Authority: [Signature]

Consent Authority: [Signature]

Registration Certificate No. [Number]

File No. [Number]

When this plan is lodged electronically at the Land Titles Office, it shall be deemed to be a true and correct copy of the original plan.

1. Details withdrawn in duplicate.

REGISTERED INSTRUMENT 021

**SURVEY PRACTICE REGULATIONS 2001 CLAUSE 32 (2)**

MARK	M G A. CO-ORDINATES	H CLASS	H ORDER	C S F
SSM 65140	552743.185 66879002.336	C	U	0-999634
SSM 18932	553215.116 66878938.12	B	U	0-999634
SSM 34296	553021.349 66878937.293	C	U	0-999632

SOURCE SCTMS 18/09/2002

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

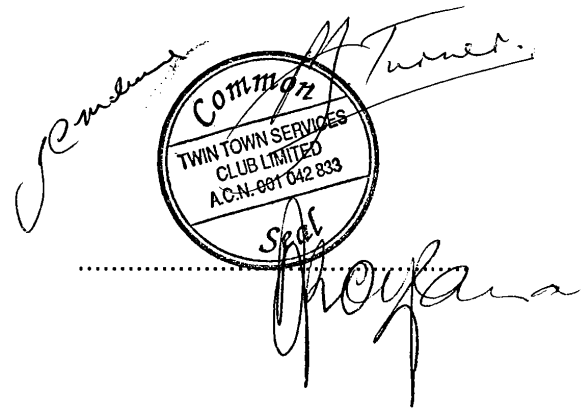
IN WITNESS whereof the parties have hereunto set their hands and seals on the day and year first hereinbefore written.

THE COMMON SEAL OF  
**TWEED SHIRE COUNCIL** was }  
affixed on the }  
day of }  
2004 in the presence of: }

.....

.....

THE COMMON SEAL OF  
**TWIN TOWNS SERVICES CLUB** was }  
affixed on the }  
day of }  
2004 in the presence of: }



**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.



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**20 [ES] Naming of Road Created by Roads and Traffic Authority between Clothiers Creek Road and the Round Mountain Overpass of the Motorway in the Locality of Tanglewood**

**ORIGIN:**

**Design**

**FILE NO: GS5/1/ Pt 3 – Street/Road Naming**

**SUMMARY OF REPORT:**

The RTA, as part of their obligations under development consent granted to them for the Yelgun-Chinderah By-Pass, were required to seal a local road which forms a connection between Round Mountain Road and Clothiers Creek Road at Tanglewood. A plan showing the location of the road follows this report as an attachment.

The road was formalised by the registration of a plan of acquisition for road purposes, which was registered on 18 July, 2003. Pursuant to section 10 of the Roads Act, 1993 the road was dedicated as public road, which vests the road to Council.

The road has been locally known as “Swamp Road” , another suggestion for the name was “Watkins Bishop Road”, in honour of a pioneering farmer of the area.

However, other names have also been suggested in telephone inquiries regarding the name of the road and it is recommended that Council’s intention to name the road be advertised and submissions be requested so that the ultimate adopted name is accepted by the community.

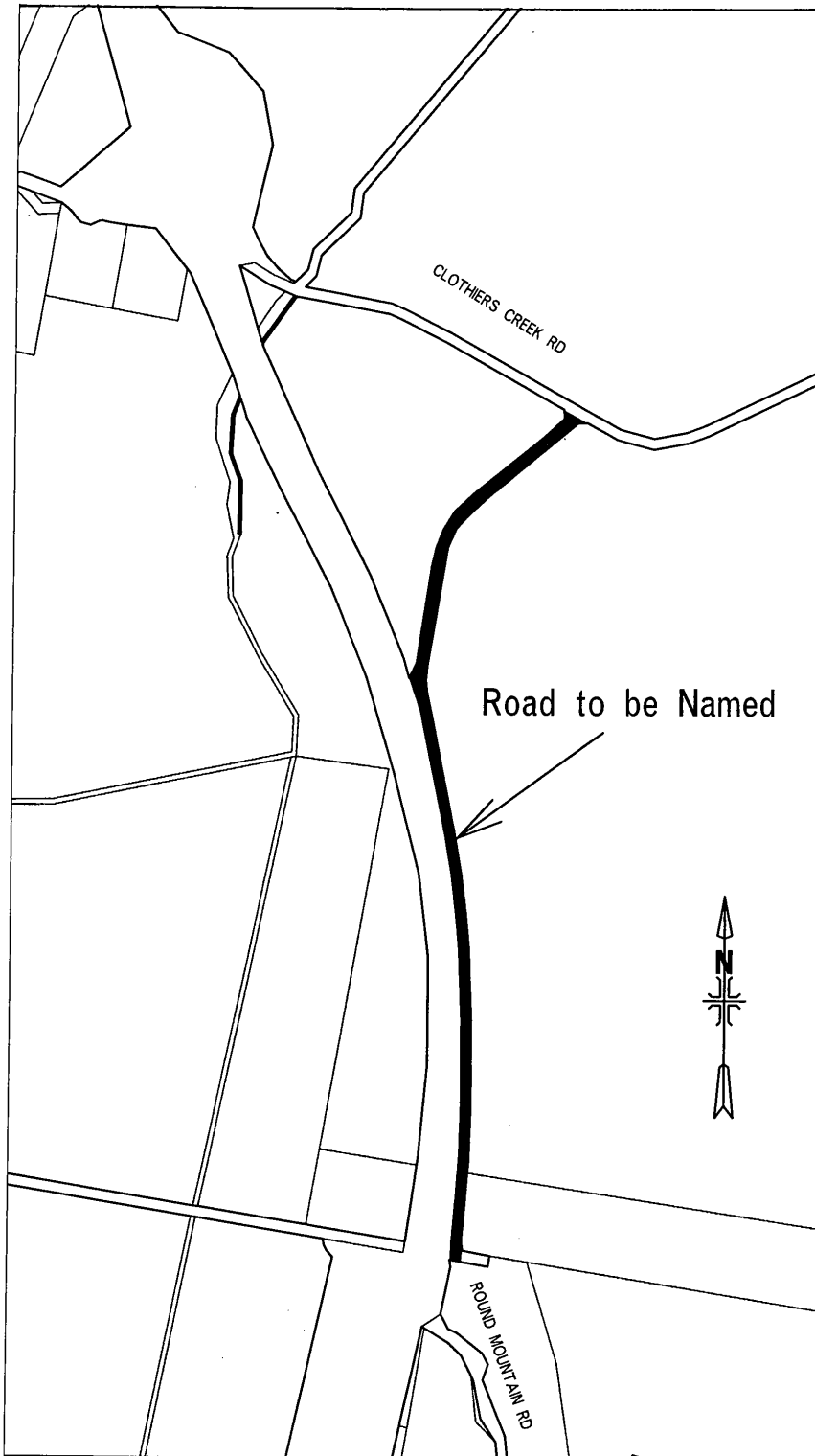
**RECOMMENDATION:**

That Council:-

1. Publicises its intention to name the road Swamp Road, allowing one month for submissions.
2. Notifies the relevant authorities under the provisions of the Roads (General) Regulation 1994.

**REPORT:**

As per Summary of Report.





**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil

**POLICY IMPLICATIONS:**

Nil

**UNDER SEPARATE COVER:**

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**21 [ES] Tweed Coastal Estuaries Management Plan, Offer of Financial Assistance**

**ORIGIN:**

**Water**

**SUMMARY OF REPORT:**

The Minister for Infrastructure and Planning and Minister for Natural Resources, Mr Craig Knowles MP, has advised Council that financial assistance of up to \$40 000 will be made available to Council on a 1:1 NSW Government to Council basis for implementation of the Tweed Coastal Estuaries Management Plan Stage 6.

This funding has been made available through the Department of Infrastructure, Planning and Natural Resources Estuary Management Program. Council has allocated \$40,000 in the 2003/2004 budget to provide Council's contribution.

**RECOMMENDATION:**

That Council:-

1. Accepts the financial assistance of up to \$40,000 from the Department of Infrastructure, Planning and Natural Resources Estuary Management Program on a 1 to 1 basis, and
2. Votes the expenditure of \$40,000 from the Tweed River Estuary Management Program of Council to match the offer.

**REPORT:**

The Minister for Infrastructure and Planning and Minister for Natural Resources, Mr Craig Knowles MP, has advised Council that financial assistance of up to \$40 000 will be made available to Council on a 1:1 NSW Government to Council basis for implementation of the Tweed Coastal Estuaries Management Plan Stage 6.

This funding has been made available through the Department of Infrastructure, Planning and Natural Resources Estuary Management Program. Council has allocated \$40,000 in the 2003/2004 budget to provide Council's contribution.

The following program that was adopted by the Tweed Coastal Committee and Council and submitted to the DIPNR for funding.

**1. 2003/2004 Program**

<b>Riparian Buffer Zone Rehabilitation</b> Revegetation and enhancement works as required for Cudgen, Cudgera and Mooball Creeks.	\$20,000
<b>Boardwalk Construction in Cudgen Creek</b> Continuation of the Cudgen Creek foreshore boardwalk.	\$30,000
<b>Water Quality Monitoring</b> Continuation of water quality monitoring Cudgen Cudgera and Mooball Creeks.	\$12,000
<b>Review of the Estuary Management Plan</b> Formal review of the <i>Estuary Management Plan for Cudgen, Cudgera and Mooball Creeks, 1997</i> to incorporate outcomes from development of the NSW Coastal Policy, Integrated Catchment Management Plan for the Northern Rivers Catchment and the Healthy Rivers Commission Inquiry into North Coast Rivers and Coastal Lakes.	\$15,000
<b>Education</b> Dissemination of educational and information materials to the Tweed Coast community.	\$3,000
<b>TOTAL</b>	<b>\$80,000</b>

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Council has allocated \$40,000 in the 2003/2004 budget as the required matching contribution on a 1:1 NSW Government to Council basis.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**22 [ES] Tweed River Estuary Management Plan, Offer of Financial Assistance**

**ORIGIN:**

**Water**

**SUMMARY OF REPORT:**

The Minister for Infrastructure and Planning and Minister for Natural Resources, Mr Craig Knowles MP, has advised Council that financial assistance of up to \$500 000 will be made available to Council on a 2:1 NSW Government to Council basis for implementation of the Tweed River Estuary Management Plan.

This funding has been made available through the Department of Infrastructure, Planning and Natural Resources Estuary Management Program. Council has allocated \$250,000 in the 2003/2004 budget to provide Council's contribution.

**RECOMMENDATION:**

That Council:-

1. Accepts the financial assistance of up to \$500,000 from the Department of Infrastructure, Planning and Natural Resource's Estuary Management Program on a 2: 1 basis, and
2. Votes the expenditure of \$250,000 from the Tweed Rivery Estuary Management Program of Council to match the offer.

**REPORT:**

The Minister for Infrastructure and Planning and Minister for Natural Resources, Mr Craig Knowles MP, has advised Council that financial assistance of up to \$500 000 will be made available to Council on a 2:1 NSW Government to Council basis for implementation of the Tweed River Estuary Management Plan.

This funding has been made available through the Department of Infrastructure, Planning and Natural Resources (DIPNR) Estuary Management Program. Council has allocated \$250,000 in the 2003/2004 budget to provide Council's contribution.

The program that was adopted by the Tweed River Committee and Council and submitted to the DIPNR is included below.



**TWEED RIVER ESTUARY MANAGEMENT PLAN IMPLEMENTATION 2003-2004**

<b>Project Area</b>	<b>Description</b>	<b>Budget</b>
<b>Riparian Revegetation</b>	Riparian vegetation rehabilitation and maintenance in conjunction with Work for the Dole Program.	\$30,000
	Wobul Creek, restoration of high conservation value flood plain rainforest on Council Land.	\$30,000
	Rous River Riparian Rehabilitation – management plan/design required to implement innovative vegetative bank erosion management technique at a high priority revegetation site.	\$10,000
	Oxley Cove Riparian Rehabilitation - prepare design and management plan for enhancement and restoration of forest and saltmarsh areas at Oxley Cove / Chunderah Bay.	\$10,000
<b>Bank Erosion Management</b>	Support for implementation of high priority Integrated Catchment Management Plan Projects.	\$30,000
	Ongoing works on priority sites in public ownership identified in the Bank Erosion Management Plan including Oxley Cove riverbank.	\$100,000
<b>Stotts Channel Dredging</b>	Investigation complete 2002/2003, implement minor dredging works for increased tidal flow.	\$40,000
<b>Acid Sulfate Soil</b>	Continued support of research, monitoring and improved farm management practices.	\$60,000
<b>Urban Stormwater Quality Management</b>	Construct a GPT on main stormwater line from Tweed CBD leading to the Jack Evans Boat Harbour.	\$30,000
<b>Monitoring Performance Indicators</b>	Support for stormwater management project at Knox Park Pond, Murwillumbah.	\$30,000
	Ongoing ecological health, biological and water quality monitoring.	\$45,000
<b>Education</b>	Continuation of Waters of the Tweed Series and support of education resource centre. Dissemination of educational materials and information including Tweed River Festival activities.	\$30,000
<b>Wetland enhancement</b>	Support for wetland enhancement projects in conjunction with Wetland Care Australia and local landholders.	\$10,000
<b>Sea Grass Mapping</b>	Update of seagrass mapping in the lower Tweed River estuary.	\$10,000
<b>Foreshore Recreation</b>	<ul style="list-style-type: none"> <li>• Terranora Foreshore Walkway – continuation of walkway under the Work for the Dole Program.</li> <li>• Pontoon installation on public jetties at two sites on Terranora Creek.</li> <li>• Tumbulgum foreshore – formalisation of beach areas and protection of existing aquatic vegetation.</li> <li>• Heritage Wharf at Tumbulgum as part of River Link concept.</li> </ul>	\$60,000 \$25,000 \$80,000 \$60,000
<b>Coordination</b>	Project coordination and administration.	\$60,000
<b>Total</b>		<b>\$750,000</b>

*Note: approximately \$490,000 of the total is allocated to on-ground outcomes.*

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Council has allocated \$250,000 in the 2003/2004 budget as required matching contribution on a 2:1 NSW Government to Council basis.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**23 [ES] Cudgera Creek Road Upgrading**

**ORIGIN:**

**Works**

**FILE NO: R1470 Pt 4**

**SUMMARY OF REPORT:**

The RTA as a condition of consent for the construction of the Motorway were required to upgrade Cudgera Creek Road from the motorway to Pottsville Road within five years of the opening. Advice has been received from the RTA that it proposes to commence construction in mid to late 2005 with completion in mid 2006.

**RECOMMENDATION:**

That this report be received and noted.

**REPORT:**

The RTA as a condition of consent for the construction of the Motorway were required to upgrade Cudgera Creek Road from the motorway to Pottsville Road within five years of the opening. The motorway was opened in August 2002. Council has had a significant increase in maintenance on that section of Cudgera Creek Road since the opening and following a report to Council requested additional funds from the RTA or that they accept responsibility for the road until it is upgraded. There has not been a response to this request.

The RTA advises that the upgrade will provide safer and more direct access between the freeway and the Pottsville - Mooball Road by:-

- Straightening the road alignment
- Providing a new and improved road design
- Constructing a wider bridge over Cudgera Creek
- Providing through access from Pottsville to the Cudgera Creek Road interchange on the highway
- An improved intersection at the junction of Cudgera Creek and Pottsville - Mooball Roads, which maintain access to Mooball via a give-way arrangement
- Raising the height of the road and bridges to improve flood immunity

The RTA proposes to commence construction in mid to late 2005 with completion in mid 2006. While this is within the time frame of the consent it has placed additional burden on Council's road maintenance funds.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## **REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES**

### **24 [EC] Policy Regulating Installation of Unregistrable Moveable Dwelling in Flood Prone Caravan Parks**

#### **ORIGIN:**

**Environment & Health Services**

#### **SUMMARY OF REPORT:**

At its meeting of 17 March 2004 Council requested that a report be brought forward on 'necessary changes' to Council policy 'to enable flexibility to assist with relocation of existing homes/caravans to other parks'.

Restrictions exist in Council Policy E2.29 over the placement of unregistrable moveable dwellings (UMDs) in high hazard flood prone caravan parks. These restrictions are intended to prevent exposure of additional long term residents living in these structures in flood prone parks.

There are a number of valid reasons why these restrictions should not be varied or removed, as outlined in this report.

It is strongly recommend that Policy E2.29 not be varied, and unregistrable moveable dwellings not be permitted to be relocated to flood prone caravan parks in Tweed Shire.

#### **RECOMMENDATION:**

That Council does not vary Policy E2.29.

## REPORT:

At its meeting of 17 March 2004 Council requested that a report be brought forward on 'necessary changes' to Council policy 'to enable flexibility to assist with relocation of existing homes/caravans to other parks'. It is understood that Council is seeking to assist relocation of existing long term residents from within the Tweed Waters Caravan Park (formerly known as Banora Point Caravan Park) due to ongoing reports of hardship.

Council's existing Policy E2.29 is reproduced in full at the end of this report. The Policy objective is 'To control the placement of unregistrable moveable dwellings and rigid annexes upon flood liable land to minimise damage from flooding in caravan parks while providing tenants of long term sites with the opportunity to have adequate levels of convenience and security.' These restrictions are intended to prevent exposure of additional long term residents living in these structures in flood prone parks.

Part k of the Policy relates to the placement of Unregistrable Moveable Dwellings (UMD), and states the following:

- "k. In a high hazard park unregistrable moveable dwellings may be installed on short term sites with the approval of Council provided that:-*
- E1. The floor level of the unregistrable moveable dwelling shall be at least 300mm above the designed flood level but not more than 1200mm above ground level.*
- E2. The unregistrable moveable dwelling is only to be used as a park van and the base is to comply with clause (h) of this Policy."*

The Policy basically prevents the relocation of existing UMDs occupied by long term residents from within the Tweed Waters Caravan Park to other High Hazard Parks at Chinderah. The Policy does however permit UMDs to be placed on short term sites where the structures are owned by the Park. The structures are required to achieve certain minimum floor levels. In this situation the occupants are short term occupants (holiday makers) and in the case of a flood warning they can collect their belongings and vacate the site.

The current Policy restrictions have operated since about 1989 in line with the Flood Plan.

It should be noted that Council has relatively recently refused applications to place UMDs in the Homestead, Royal Pacific and Drifters caravan parks.

## REASONS WHY THE EXISTING POLICY SHOULD NOT BE VARIED

There are a number of significant and valid reasons why Council should not vary the current Policy and permit placement of the UMD, as follows:

- Part of the Tweed Waters Caravan Park is classified as flood free because that section has been filled so that structures are above the anticipated 1:100 flood level. The remainder of the Park is low hazard flood prone as it would be inundated by less than 800mm. The parks where it is proposed to relocate the structures are high hazard flood prone parks, which are inundated by more than 800mm of water depth of water in a 1:100 flood event. Therefore the respective residents and their homes would be subjected to a higher risk of flood exposure than where they are presently located, which is unacceptable. Some of the residents would be being relocated from flood free conditions to high hazard flood conditions.
- Council is not responsible for ensuring the commercial viability of the existing park, and should not vary policies which exist to protect residents from flood conditions.
- Caravan park residents are often seniors who are less able to cope with flood exposure and recovery from such events.
- If approval were given and the floor levels were required to comply with DCP 5 requirements (floor at 3.6m AHD) then the structures could be as much as 1.8 – 2m above ground level. This would not be desirable from an aesthetic or structural aspect. In fact if the structures were required to be at that height, then the operators of the caravan parks may not be willing to receive them due to aesthetic considerations in their parks. Caravan parks in the Tweed would look quite peculiar if it were permissible to install manufactured homes at 2000mm above ground level.
- The site is a long-term site and the occupant would be exposed to flood conditions. It may be said that there are many structures in caravan parks which would be exposed to flood waters. However, there is no good reason why this should be compounded by the approval of additional UMDs in these circumstances. It is the intention of the Policy that as structures become old or dilapidated they would be replaced with complying structures, not UMDs.
- The structure would eventually transfer to separate ownership, exposing future residents to flood conditions.
- Potential future litigation against Council in the event of future harm or damage to residents or property.
- Importantly, any approval would set a precedent. There is likely to be many other people who would seek approval to install UMDs. Officers regularly take enquiries from persons interested in installing UMDs in flood prone parks. This needs to be considered in terms of the safety of these persons and their possessions if they were exposed to future flood conditions.
- Council has refused similar applications in the recent past.

- There are other non flood prone caravan parks for which approval could be sought to install a new UMD.
- What if other parks are closed or in difficulty? Will Council vary policies to accommodate those residents?
- A variation would not be consistent with other policies or actions of Council. Council has previously purchased homes at Murwillumbah on the flood plain to prevent resident exposure. Relocating the homes without requiring compliance with DCP 5 requirements for a minimum 3.6m AHD floor level would be inconsistent with Policies intended to protect residents safety in flood conditions.

It is strongly recommend that Policy E2.29 not be varied, and unregistrable moveable dwellings not be permitted to be relocated to existing flood prone caravan parks in Tweed Shire.

#### **EXAMPLE OF FLOOR HEIGHT ISSUE**

One Park possibly considered for receipt of relocated UMDs is the Drifters Van Village at Chinderah. For most long-term sites the ground level within the Park is believed to have a height of about 2m AHD. Drifters Van Village is classified as a 'high hazard flood prone park' by Council records. The minimum floor level required in the structure by DCP 5 and Policy E2.29 is 3.6m AHD. This level equates to 300mm above the 'adopted design flood level' for Chinderah. Therefore the structure would need to be placed some 1600mm above ground level to be free from flood waters. Council's existing Policy does not permit floor levels to be placed more than 1200mm above ground level for reasons of aesthetics and stability.

**Should consideration be given to issuing approval, then it is considered essential that floor heights in the new structure be required to comply with DCP 5 and existing Policy.**

#### **POLICY VARIATION**

Despite the information provided above as to why Council should not vary the current Policy, should Council consider a Policy variation necessary, Council may consider a resolution as follows:

Notwithstanding existing restrictions on the placement of unregistrable moveable dwellings in high hazard flood prone caravan parks under Policy E2.29, and in the interest of facilitating the relocation of long term residents (existing at the time of this resolution) from within the Tweed Waters Caravan Park, these existing UMDs may be relocated to flood prone caravan parks within Tweed Shire, subject to:

- Any conditions imposed by the DECS
- Prior written approval of Council having been obtained (both application to place structure and application to connect to sewer).



- Details regarding tie-downs as recommended by a structural engineer to be lodged with Council.
- Minimum floor levels to be in accordance with DCP 5 (eg 3.6m AHD) but not more than 1800mm above ground level. *Note that this would still prevent relocation to some sites, as the ground height would be too low to comply with the maximum 1800mm height requirement.*
- Structural engineers certification to be supplied to Council for tie-down against flood and wind forces on completion of the installation.
- Compliance with general requirements of the Local Government (Caravan Park, Camping Ground and Moveable Dwellings) Regulation, 1995 as amended, such as setbacks and site occupancy limitations.

Council Policy has been to not permit new UMDs to be placed within flood liable caravan parks. However, if Council seeks to assist relocation of existing long term residents from within the nominated caravan park due to ongoing reports of hardship this resolution could be considered.

This resolution does not provide approval for the placement of new UMDs, or relocated UMDs, other than the relocation of existing UMDs (as described in this report) from within the Tweed Waters Caravan Park.

## **RECOMMENDATION**

It is strongly recommend that Policy E2.29 not be varied, and unregistrable moveable dwellings not be permitted to be relocated to existing flood prone caravan parks in Tweed Shire.

## **POLICY E2.29**

### **UNREGISTRABLE MOVEABLE DWELLINGS AND ANNEXES ON FLOOD LIABLE LAND**

#### **Objective**

To control the placement of unregistrable moveable dwellings and rigid annexes upon flood liable land to minimise damage from flooding in caravan parks while providing tenants of long term sites with the opportunity to have adequate levels of convenience and security.

#### **Policy**

- a. Unregistrable moveable dwellings and rigid annexes will not be permitted in any caravan park or addition to caravan park on flood liable land constructed after 1 December 1986.

- b. Unregistered moveable dwellings and rigid annexes may be permitted in caravan parks that are located on flood liable land within flood fringe and non-critical flood storage areas where the park is filled above Council's design flood level for the locality and where Council's investigations have shown that filling will not have any significant adverse impact on the flood pattern.
- c. In caravan parks not excluded by Clause (a), unregistrable moveable dwellings and rigid annexes may be permitted in caravan parks designated as being of a low hazard category. The floor level of the unregistrable moveable dwelling the floor level of the registrable moveable dwelling whilst maintained in a mobile state shall be at least 300 millimetres above the design flood level.
- d. In no instances shall the floor level be more than 1200 millimetres above the ground level.
- e. Low hazard for the purpose of this policy shall mean that the site and normal surrounding ground and road levels shall be not more than 800 millimetres below the design flood level and that there shall be access which will be not more than 800 millimetres below the design flood level from the moveable dwelling site to flood free land considered by Council to be a suitable refuge.
- f. In high hazard caravan parks, except Greenhills Caravan Park, Tweed Ski Lodge Caravan Park and any park excluded under clause (a) rigid annexes may, with the approval of Council, be attached to registrable moveable dwellings on long term sites provided:-
  - E1. Where levels permit, the annexe floor level shall be in accordance with clauses (c) and (d) of this policy.
  - E2. Where Item 1 cannot be complied with, the floor level of the annexe is not below the floor level of the registrable moveable dwelling to which it is attached.
  - E3. Any flooring fitted less than 300 millimetres above the designed flood level for the site shall be of hardwood or water resistant grade material.
  - E4. The method of attachment to the registered moveable dwelling shall be such as to allow disconnection within one hour.
- g. Short term sites will not be allowed to be converted to long term sites on flood liable land except as a reorganising of sites in accordance with Council's approval of an upgrading program.
- h. The base to the unregistrable moveable dwelling or annexe is to be structurally designed to withstand flood water and wind loadings and adequate design and documentation is to be submitted to Council to allow it to determine compliance with this clause.

- i. No unregistrable moveable dwelling or annexe is to be placed upon flood liable land without prior approval of Council.
- j. Each application for approval under this policy is to be made upon the approved form and be accompanied by a fee to be as determined by Council.
- k. In a high hazard park unregistrable moveable dwellings may be installed on short term sites with the approval of Council provided that:-
  - E1. The floor level of the unregistrable moveable dwelling shall be at least 300mm above the designed flood level but not more than 1200mm above ground level.
  - E2. The unregistrable moveable dwelling is only to be used as a park van and the base is to comply with clause (h) of this Policy.
- l. A fee of \$50.00 will apply for applications to place unregistrable moveable dwellings or rigid annexes on flood liable land will apply from 4 June 1992 for the remainder of 1992.
- m. Council's Environment and Community Services Division will ensure that each park has an approved evacuation plan and means of communication to all tenants.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

E2.29

**UNDER SEPARATE COVER:**

Nil.

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## **25 [EC] Entomological Control Report**

### **ORIGIN:**

**Environment & Health Services**

**FILE NO: GN1/3 Pt5**

### **SUMMARY OF REPORT:**

The following report outlines nuisance insect and vermin control carried out during February to April 2004 and a report on the discovery of local pandanus tree dieback caused by introduced plant hoopers.

### **RECOMMENDATION:**

That:-

1. Consent conditions for Tweed developments that include landscaping activity, require sourcing of any pandanus from jamella hopper free areas and that pandanus be injected or sprayed with imidacloprid.
2. Council's entomological officer be authorised to discuss this issue with local nurseries, landscape services and market plant sellers dealing in pandanus.

**REPORT:**

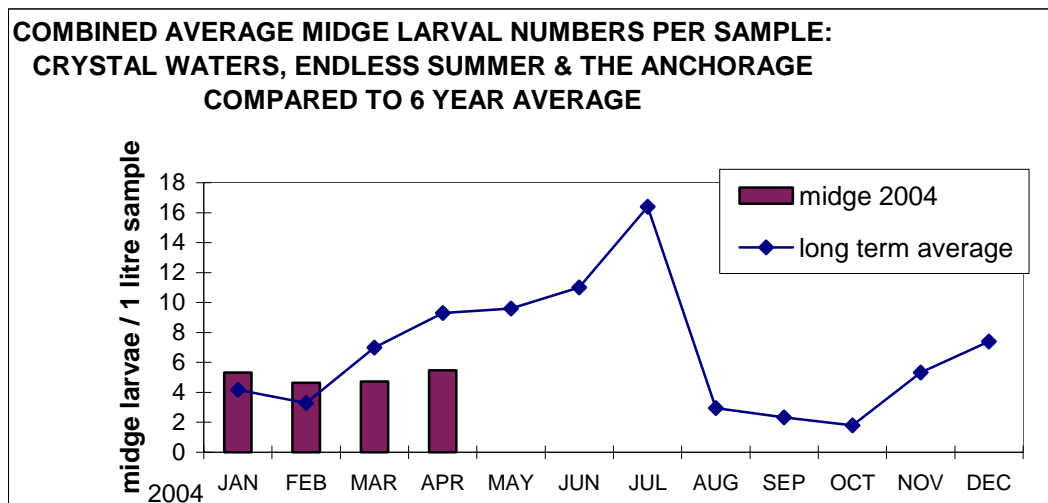
**BITING MIDGE**

**Seasonal activity**

Biting midge activity was generally quiet with 13 biting midge related enquiries over the report period. Biting midges appeared most active during April. The worst midge affected areas were Banora Point East, Tweed Heads South and parts of Terranora.

Sampling of canal breeding biting midge larvae indicated average to below average *Culicoides molestus* larval numbers in the major canals over the quarter. The next major canal spray for biting midge larval control is planned for July when midge larval numbers are generally at their peak.

The following graph shows monthly average biting midge larval numbers in major canals compared to long-term averages.



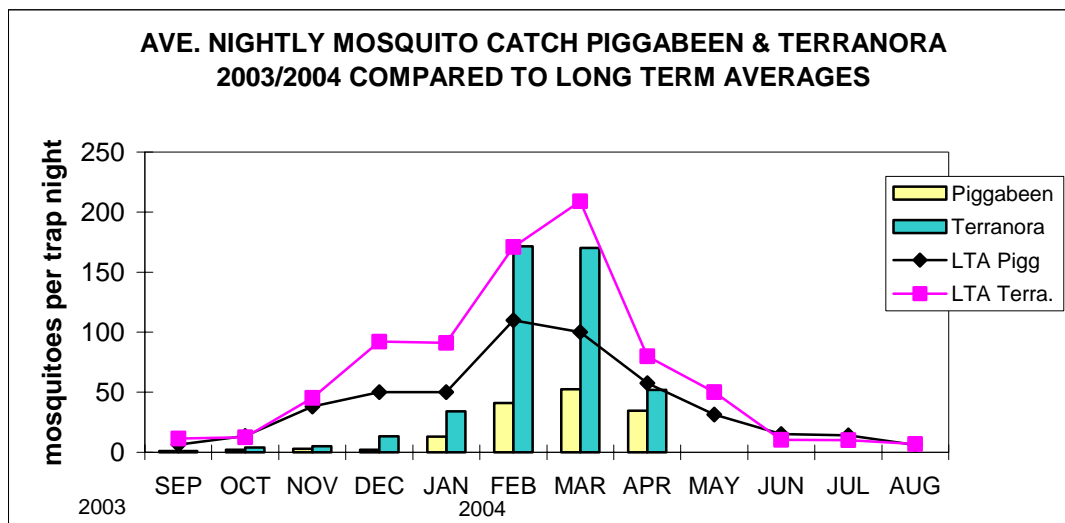
**MOSQUITOES**

**Seasonal activity**

Mosquito nuisance activity over the report period was generally low. However, there were a few hot spots around parts of Bilambil Heights, Terranora, Tweed Heads South and Tumbulgum. There were 18 mosquito related enquiries. Rainfall initiated most of the mosquito breeding over the report period with some tidally initiated saltmarsh mosquito hatches around Terranora and Cobaki Broadwaters.

Carbon dioxide baited traps recorded low to moderate numbers of mosquitoes over the report period. *Culex sitiens* was the most commonly trapped mosquito followed by the saltmarsh mosquito *Ochlerotatus vigilax* and the domestic breeding *Oc. notoscriptus*.

The following graph shows average nightly adult mosquito numbers caught in carbon dioxide baited traps this season compared with long-term averages (LTA).



### Control

There were 3 aerial mosquito larvicide treatments carried out over the report period February – April 04. See table below. Spray efficacy was extremely good at all sites sampled.

#### AERIAL MOSQUITO SPRAYING - TAPPS AVIATION ABATE 50SG 2004

Date		Time	Chemical & rate	Hectares &	Weather	Target species	Pre spray dip ave.	Post spray dip ave
6-Feb-04	N. Tumbulgum	740	Abate	11ha	Fine	V. funerea	>10	0
			1.2 kg/ha	15kg	5k SE	Oc. vigilax		
6-Feb-04	Mahers Lane	800	Abate	12ha	Fine	Oc. vigilax	>5	0
			1.2 kg/ha	16kg	5k SE	V. funerea		
6-Feb-04	Charles Bay	820	Abate	22ha	Fine	Oc. vigilax	>10	0
			1.2 kg/ha	29kg	5k SE	V. funerea		
27-Feb-04	N. Tumbulgum	1030	Abate	11ha	Fine	Oc. vigilax	>5	0
			1.2kg/ha	13kg	12K SE	V. funerea		
27-Feb-04	Mahers Lane	1100	Abate	8ha	Fine	Oc. vigilax	8/dip	0
			1.2kg/ha	10kg	12K SE	V. funerea		
27-Feb-04	Charles Bay	1130	Abate	18ha	Fine	Oc. vigilax	4/dip	0
			1.2kg/ha	22kg	15k SE			
10-Mar-04	Charles Bay	1700	Abate	20ha	O'cast	Oc. vigilax	>5/dip	0
			1.2kg/ha	24kg	15k SE			
10-Mar-04	N. Tumbulgum	1730	Abate	11ha	O'cast	Oc. vigilax	5/dip	0.1
			1.2kg/ha	16kg	15k SE	V. funerea		

Ground based mosquito control utilising biological larvicides was carried out over the report period to pockets of *Oc. vigilax* and *Verrallina funerea* breeding around Tweed Heads West, Cobaki, Terranora, Bilambil, Chinderah, Pottsville and Fingal Head. Pre-treatment with sustained release methoprene insect growth regulator pellets, to usual chronic vigilax and funerea breeding areas, was carried out over the report period.

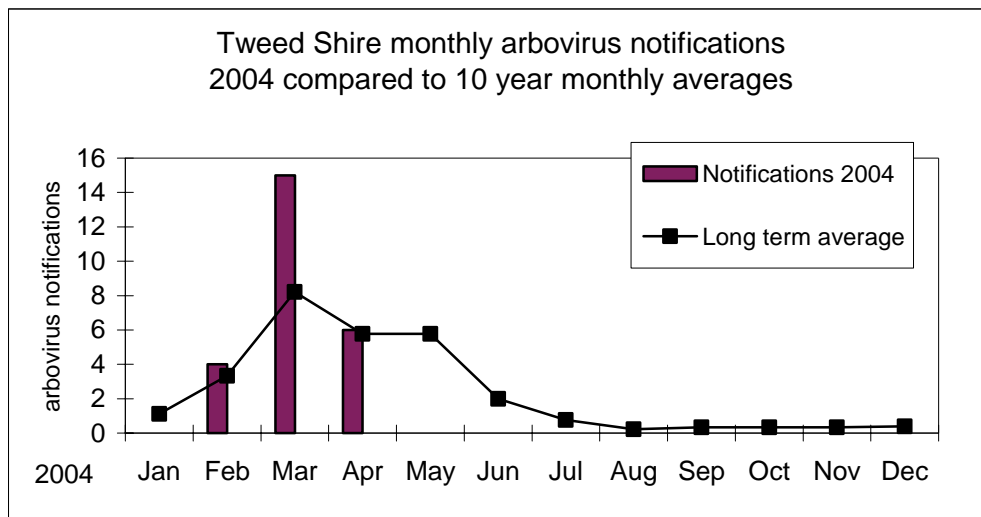
Native larvivorous mosquito fish populations have begun to return to some areas they have been absent from during the drought. This has assisted mosquito control in several large areas that did not require late season chemical control due to the heavy fish predation on mosquito larvae.

### Arbovirus

There were 19 notified Ross River virus cases reported in the Shire over the period Feb - April 04 and 6 Barmah Forest virus cases.

These figures were average for February and April and slightly above average in March with a spike in RRV cases around Murwillumbah. Virus activity was well below that of last year when April 2003 alone saw 45 arbovirus cases notified throughout the Shire.

*The following graph depicts combined arbovirus cases notified in 2004 compared with long-term monthly averages.*



### OTHER PESTS

There were 102 enquiries/identifications regarding miscellaneous pests over the report period. The main enquiries related to rats, ants, wasps and spiders.

Rodent baiting was carried out around infested Tweed River rock walls and Coastal Caravan parks over the report period.

Red-back spider control was carried out at several bus shelters following reports of spider infestations from the public.

Pandanus dieback associated with introduced plant hoppers



On 23 March several sick and dying pandanus trees were noted in the foreshore reserve at Kingscliff. Inspection revealed heavy infestations of a small sucking insect identified as the northern pandanus plant hopper (*Jamella australiae*). This hopper is native to North Queensland and has been spread south by movement of potted and transplanted pandanus trees by the nursery and landscape industry. In their native North Queensland, these hoppers are controlled by several small wasps, which parasitise the hopper eggs. Without the wasp parasites, jamella will debilitate pandanus causing extensive dieback and death. Jamella is only known to affect pandanus trees.

This insect has previously spread through parts of Central and Southeast Queensland and caused the death of a large proportion of pandanus throughout those areas. Queensland authorities believe the hoppers threaten the future of coastal pandanus populations on the Gold, Sunshine and Cooloola Coasts. Up to 75% of pandanus at Noosa Heads were found to be sick or dying in the late 1990s before control measures were introduced. Pandanus are considered a botanical tourist symbol on northern NSW and Queensland beach headlands and the Tweed has hundreds of fine specimens along the coastal reserves and headlands.

Inspections of pandanus were carried out late March throughout the Shire. Jamella infested pandanus were found at the following sites:

An approximate 400metre section of the Kingscliff Beach reserve area north of Kingscliff Bowls Club that is used for monthly markets and the residential area west of this infestation to Pearl Street.

The northern precinct of Casuarina Beach development.

A small reserve adjacent to Cabarita Road Bogangar and trees in resident's yards within a 200-metre radius of this site.

Jamella control options were discussed with relevant officers from QLD National Parks, Noosa and Gold Coast Councils as well as NSW Agriculture and National Parks. Experience in southern QLD indicates the introduction of wasp parasites of jamella eggs from the north may not be very effective due to the cooler conditions and exposed areas pandanus grow in down here. However, they should be worth a try if jamella establishes in the region.

Injecting pandanus with the systemic chemical imidacloprid, formulated as Confidor 200SC, has been found to protect trees for several years around Noosa Heads. This chemical is of low toxicity to non-targets and persons applying it. Appropriate injecting equipment that does the job safely and quickly was sourced from Sidewinder Industries. The Manager of Sidewinder Industries delivered the equipment and demonstrated correct injection technique to pandanus at Kingscliff. Pandanus tree injection into trunks and major limbs began at Kingscliff on 13 April. Smaller trees without established trunks were treated with a dilute squirt of Confidor into each vegetative head.

By the end of April the known infested pandanus at Kingscliff had been treated (92 trees injected + 41 sprayed heads) as well as a protective buffer of adjacent non-infested pandanus (70 trees injected).

Bogangar had all known infested pandanus treated (26 injected +11 sprayed heads) as well as several adjacent buffer trees (6 injected + 3 sprayed heads).

Casuarina Beach treatment was underway.

Some of the large, heavily jamella infested trees at Kingscliff may still die. The injected chemical can take several months to translocate to growing leaf terminals. When jamella heavily infest trees, high carbohydrate concentrations develop beneath the vegetative heads; this further inhibits translocation.

Hopefully we have caught the jamella infestation early and tree injection will be sufficient to eradicate the pest. Over the coming months non-infested pandanus trees along foreshore reserves and headlands will be injected with a protective imidacloprid treatment and monitoring for the pest continued. If jamella infestations are still apparent next spring, the sourcing of wasp jamella egg parasites will be further considered.

Due to the significance of pandanus trees in the coastal landscape, protection from *Jamella australiae* is important. Pandanus hopper adults are winged but poor flyers and more likely spread to new areas by movement of infected plants. It is possible the Kingscliff infestation in the market area was brought in with infected nursery stock sold at the markets. The Casuarina infestation was probably brought in with transplanted trees from Central QLD. The small Bogangar infestation source is puzzling.

Recommendation: It is recommended that consent conditions for Tweed Developments that include landscaping activity, require sourcing of any pandanus from jamella hopper free areas and that trees be injected or sprayed with imidacloprid. It is also recommended that Council's Entomological Officer be authorised to discuss this issue with local nurseries, landscape services and market plant sellers dealing in pandanus.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## **REPORTS FROM SUB-COMMITTEES/WORKING GROUPS**

### **Minutes Circulated with this Agenda Not Requiring Council Resolution**

#### **FOR THE CONSIDERATION OF COUNCIL:**

#### **UNDER SEPARATE COVER:**

1. Minutes of the Tweed Shire Council Disability Access Committee Meeting held Thursday 19 February 2004.
  2. Minutes of the Community Cultural Advisory Committee Meeting held Tuesday 23 March 2004.
  3. Minutes of the Vegetation Management Plan Steering Committee Meeting held Tuesday 27 April 2004.
  4. Minutes of the Tweed Shire Council Consultative Committee Meeting held Thursday 29 April 2004.
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## ORDERS OF THE DAY

### 1 [NOM] Alliance for Existing and New Agricultural Enterprises Within Tweed Shire

#### NOTICE OF MOTION:

Councillor M R Boyd moves:

That in view of the serious financial constraints being experienced by many primary producers in Tweed Shire, Council takes a pivotal role in seeking to form an alliance with Southern Cross University and other universities, CSIRO, RIRDC, private consultants, government departments and farmer groups with the aim of building on existing agricultural successes and endeavouring to introduce new, more viable and sustainable farming enterprises.

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### 2 [NOM] Alcohol Free Zones - Murwillumbah

#### NOTICE OF MOTION:

Councillor M R Boyd moves:

That Council seeks to have a meeting with the Police Area Commander in a bid to put a stop to the unacceptable drunken behaviour which seems to occur on a regular basis in Murwillumbah on Friday and Saturday nights.

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**3 [NOM] Development of Land - Barnby Street, Murwillumbah**

**NOTICE OF MOTION:**

Councillor M R Boyd moves:

That:-

1. Council facilitates a public meeting in the Murwillumbah Civic Centre Auditorium at which the applicant for the development of the Stainlay land off Barnby Street be given the opportunity to make a presentation on all the relevant issues associated with the development
  2. A letter box drop advising people of this meeting be carried out in those areas most affected by this development.
  3. Those people attending be given the opportunity to raise their concerns and opinions on this development.
-

## **CONFIDENTIAL MATTERS**

### **REPORTS THROUGH GENERAL MANAGER IN COMMITTEE**

#### **REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT SERVICES IN COMMITTEE**

- 1            **[DS] Draft Tweed Local Environmental Plan 2000, Amendment No 51 -  
Reclassification of Land from Community Land to Operational Land, Lot  
3, DP 842350, 104 Rosewood Avenue, Bogangar**

#### **REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
- 

- 2            **[DS] Consultant Brief - Land Use Planner for Kings Forest**

#### **REASON FOR CONFIDENTIALITY:**

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- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
-

## REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

### 3 [ES] Provision of Water Pipeline Cleaning Services and Valve and Hydrant Maintenance

#### REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
- 

### 4 [ES] Construction of Sewage Pump Station, Beryl Street, Tweed Heads

#### REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
-



**5 [ES] Supply & Erection of Reservoir Roofing, West Pottsville Reservoirs (re-advertised) - Contract No. EC2004-081**

**REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
- 

**6 [ES] EQ2004-068 Supply and Delivery of Selected Materials**

**REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
- 

**7 [ES] EC2004-074 Supply of Ready Mixed Concrete**

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**8 [ES] EC2004-066 Tenders for the Supply of Contract Truck Haulage**

**REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
- 

**REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE**

**9 [EC] Acquisition of Land at Riverview Street, Murwillumbah**

**REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret
-

